

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Environmental Resources

BOARD AGENDA # B-6

Urgent

Routine

AGENDA DATE September 10, 2013

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Hearing Continued from August 20, 2013, to Consider the Recommended Decision of the Nuisance Abatement Hearing Board Regarding CE No. 12-0224 at 0 Bystrum Road, Modesto, California, or Approve the Settlement Agreement

STAFF RECOMMENDATIONS:

1. Adopt the recommended decision of the Nuisance Abatement Hearing Board regarding nuisances at 0 Bystrum Road, Modesto, California, as set forth in Attachment 1.

Or

2. Approve the settlement agreement (Attachment 4) with the owner(s) of the subject property and Central Valley Recycling.

FISCAL IMPACT:

Staff from the Department of Environmental Resources (DER) and the Planning Department have assisted with the subject Nuisance Abatement process. If the property is declared a nuisance and the business owners do not cease the scrap metal recycling operation, appropriate legal action will be taken. Costs associated with that action are anticipated to exceed \$20,000. An agreed upon settlement

(Continued on next page)

BOARD ACTION AS FOLLOWS:

No. 2013-456

On motion of Supervisor Monteith, Seconded by Supervisor De Martini
and approved by the following vote,

Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) X Other:

MOTION: The Board considered the recommended decision of the Nuisance Abatement Hearing Board regarding nuisances at Central Valley Recycling at 0 Bystrum Road, Modesto, California (CE No. 12-0224); and, approved the revised settlement agreement with the owners of the subject



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Hearing Continued from August 20, 2013, to Consider the Recommended Decision of the Nuisance Abatement Hearing Board Regarding CE No. 12-0224 at 0 Bystrum Road, Modesto, California, or Approve the Settlement Agreement

FISCAL IMPACT (Continued):

agreement would avoid those costs. If a forced abatement is necessary, the costs will be charged to the property owners and if the responsible person fails to pay the cost of abatement, a Notice of Abatement Lien will be recorded against the property.

DISCUSSION:

The business identified as "Central Valley Recycling" (CVR) is operated on two adjoining parcels, by Donald Francis Sr. and Donald Francis Jr. Said parcels are both zoned General Commercial District (C-2) and identified as Assessor's Parcel Number (APN) 038-012-008 (524/526 S. 9th St, Modesto) and APN 038-012-009 (0 Bystrum Rd, Modesto) and are owned by Stanley A. Goblirsch and Joyce O. Goblirsch. The parcel identified as APN 038-012-008 is improved with two (2) Quonset hut-type buildings used to primarily collect California Redemption Value (CRV) recycling. CRV recycling typically includes household items such as aluminum cans, and plastic and glass bottles. There are no land use/zoning complaints associated with the portion of this business operating on APN 038-012-008. The parcel identified as APN 038-012-009 is improved with a truck scale and scale house, containers, machinery, and piles utilized for the collection of scrap metal items. The scrap metal portion of the business and the operating practices employed by the operator have resulted in noise and air quality complaints.

In 2009, the Stanislaus County Director of Planning and Community Development, based on the evidence at hand at the time, determined that CVR's scrap metal recycling operation was similar in character and purpose to permitted uses in County Code Chapter 21.56 General Commercial (C-2) and approved the issuance of a business license to CVR for scrap metal recycling, in addition to CRV type recycling, on both APN 038-012-008 and 009. In 2012, County officials received complaints from residents of the adjoining neighborhood relating to noise and air pollution from the on-site movement of scrap metal. In response to the complaints, renewal of the business license application was placed on hold to allow the Planning Department an opportunity to review the complaints and the current operations. During staff's review of CVR's operation, the complaints of noise and dust were verified and it was determined that the nature and intensity of the use had changed and was no longer appropriate for the location. On September 5, 2012, the Director of Planning and Community Development informed CVR that the County would not approve the business license because of complaints received from the surrounding neighborhood. Due to the nuisance conditions arising out of CVR's operations that were affecting the neighboring residential areas, the Director determined that the operation of the scrap metal recycling business is not in character with permitted C-2 uses. The Director informed CVR that if they wished to contest this determination they may submit a written appeal request within 10 days of the notice, under County Code 21.112.020(B). No appeal was submitted.

In late 2012 or early 2013, CVR requested Bollard Acoustical Consultants, Incorporated to prepare a noise study to address noise concerns. The noise study dated January 30, 2013, showed that CVR exceeded Stanislaus County's daytime noise level standards contained in County Code section 10.46.120(B) by 2 to 4 decibels (dB) on the days the facility was in

Hearing Continued from August 20, 2013, to Consider the Recommended Decision of the Nuisance Abatement Hearing Board Regarding CE No. 12-0224 at 0 Bystrum Road, Modesto, California, or Approve the Settlement Agreement

operation, and by as much as 6 dB Lmax (the highest root-mean-square (RMS) sound level measured over a given period of time) and 9 dB L50 at the east property line 50 feet from the existing residences.

In response to a complaint regarding a non-permitted land use (scrap metal recycling operation), Department of Environmental Resources Code Enforcement staff conducted an inspection at 0 Bystrum Road, Modesto, California, and subsequently issued a Notice and Order to Abate on April 2, 2013, for the following alleged violations:

(1) §21.56.020 and §21.16.040 of the Stanislaus County Code. Non-Permitted Land Use (scrap metal recycling operation).

(2) §21.56.040(D) of the Stanislaus County Code. No operation (scrap metal recycling operation) shall be conducted on any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke, vibration or electrical interference detectable off the site.

Stanley A. Goblirsch and Joyce O. Goblirsch are the current owners of record according to the County Assessor's Office, the County Clerk-Recorder's Office, and a title report obtained from Stewart Title Company. The property owners and the operators of CVR have refused to comply with the Notice and Order to Abate.

On June 27, 2013, staff presented their report to the Nuisance Abatement Hearing Board to declare the property a nuisance (Attachment 1). A number of issues were raised at the meeting by both the representatives of CVR and the public, primarily those residing in nearby homes. Representatives of CVR spoke in opposition of staff's recommendation and stated the scrap metal recycling operation should be allowed in the C-2 zone. To mitigate the noise, CVR representatives mentioned that they were willing to build a ten-foot concrete wall (fence) and to implement a noise plan. CVR representatives also mentioned that a water truck was purchased to control the dust. Representatives of the public felt that the scrap metal recycling operation was a nuisance and brought up several issues and concerns. Some of the issues presented by the public dealt with health concerns such as asthma caused by the amount of dust created from the property, noise and odor caused by the dismantling of automobiles, vibration caused by the movement of heavy industrial equipment, an inability to maintain tenants in nearby rental homes, and the overall quality of life within the surrounding area which has been adversely affected. The evidence presented to the Nuisance Abatement Hearing Board on June 27, 2013, is available from the Clerk of the Board.

At that meeting, the Nuisance Abatement Hearing Board declared the property a nuisance and forwarded the matter to the Board of Supervisors recommending approval (Attachment 1). The Board may adopt, modify, or reject the recommendations, and if adopted, the property owner(s) will be required to abate the nuisance within two weeks of the Board's decision by complying with the requirements identified in Attachment 1.

The matter was scheduled for consideration on the Board of Supervisor's agenda for July 16, 2013. However, on July 3, 2013, the Chairman of the Board received a letter from Thomas H.

Hearing Continued from August 20, 2013, to Consider the Recommended Decision of the Nuisance Abatement Hearing Board Regarding CE No. 12-0224 at 0 Bystrum Road, Modesto, California, or Approve the Settlement Agreement

Terpstra, Attorney-at-Law, representing Central Valley Recycling, requesting a de novo hearing of the matter before the Board (Attachment 2). It was also requested that the hearing be scheduled on August 20, 2013, which was the next evening Board meeting. At the July 16, 2013 meeting, the Board approved continuing the hearing as requested.

On July 23, 2013, County Counsel's office received a letter from Thomas H. Terpstra, requesting to dismiss the code enforcement proceedings and proposed a settlement agreement to resolve this matter without litigation (Attachment 3).

The item was scheduled to be heard by the Board of Supervisor's on August 20, 2013, however, prior to the meeting staff and CVR agreed in principal to settle the nuisance abatement action and the hearing was continued to allow staff and CVR to draft a proposed settlement agreement. The principal terms of the settlement agreement as stated at the hearing included (1) County would recognize that a certain level of intensity of scrap metal recycling is consistent with the C-2 zone; (2) CVR would apply for a conditional use permit to determine the appropriate level of intensity, conditions of approval, and environmental impacts; (3) CVR would be allowed to continue operating while diligently pursuing the conditional use permit under certain operating conditions, including limiting its on-site crushing activities to 3 hours a day (11am to 2pm only), to minimize impacts to the surrounding neighborhood. The Board accepted the proposal and requested that the item return to the Board of Supervisor's in three weeks with a formal agreement developed mutually between CVR and the County. The terms of this settlement agreement are included as Attachment 4.

POLICY ISSUE:

The recommended action supports the Boards' priorities of A Safe Community, A Healthy Community, and the Efficient Delivery of Public Services by improving the quality of life and protecting the health and safety of the community.

STAFFING IMPACTS:

Staff from the Department of Environmental Services, Planning and Community Development, and County Counsel will continue to address the nuisance.

CONTACT PERSON:

Jami Aggers, Director of Environmental Resources. Telephone: 209-525-6770

Attachments:

- 1 Nuisance Abatement Hearing Board Recommended Decision
- 2 Letter from Thomas H. Terpstra dated July 3, 2013
- 3 Letter from Thomas H. Terpstra dated July 23, 2013
- 4 Settlement Agreement
- 5 Additional Site Maps
- 6 Additional Photos dated June 27, 2013

Hearing Continued from August 20, 2013, to Consider the Recommended Decision of the Nuisance Abatement Hearing Board Regarding CE No. 12-0224 at 0 Bystrum Road, Modesto, California, or Approve the Settlement Agreement

Available from the Clerk:

Nuisance Abatement Hearing Board Staff Report



NUISANCE ABATEMENT HEARING BOARD

RECOMMENDED DECISION

**IN RE: 0 Bystrum Road, Modesto, CA
Abatement Hearing No. CE# 12-0224**

The above referenced matter came before the Nuisance Abatement Hearing Board for hearing on June 27, 2013. Upon consideration of oral testimony and documentary evidence presented at the hearing, the Nuisance Abatement Board makes the following findings of fact and conclusions:

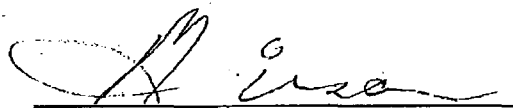
1. The property located at 0 Bystrum Road, Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number 038-012-009, is zoned C-2, General Commercial District.
2. County Staff confirmed the existence of and presented evidence of violations of Stanislaus County Codes, (as listed in the County Code(s) or interpreted or determined to violate County Code(s)) occurring on the property, as noted in "Attachment A."
3. All interested parties were served a Notice and Order to Abate pursuant to Stanislaus County Code Section 2.92.030, describing the conditions or use of the property that constitutes the violations and ordering abatement of those conditions.
4. County staff has attempted to obtain voluntary compliance by the interested parties, and the interested parties have had significant and reasonable time to correct all violations but have refused and/or failed to meet the deadlines prescribed by Notice.
5. The owners have the legal responsibility for maintenance of the property in conformance with the applicable law, ordinance and rules, including abatement of all violations and compliance with all orders of the County.
6. The interested parties were served proper Notice of Hearing to Abate Nuisance pursuant to Stanislaus County Code Section 2.92.070.
7. Based on the evidence and testimony presented at the hearing, which is incorporated herein by reference, there is substantial evidence that violations of the Stanislaus County Code, as set forth in the staff report for the matter, still exists on the property.
8. Pursuant to Stanislaus County Code Section 2.92.010, the continuing violations that exist on the property constitute a public nuisance.

The Nuisance Abatement Hearing Board further recommends the Board of Supervisors adopt the following decision:

- Approve Staff's recommendation and determine the use of the property described as a Non-Permitted Land Use and a Nuisance in the staff report are a violation of Stanislaus County Code Section 21.56.020, Section 21.16.040, and Section 21.56.040(D).
1. Order the owner and interested parties to abate the nuisance on the property within two weeks from the date of the Board decision by correcting the condition or use of the property as set forth in the staff report on this matter.
 2. Authorize the County to abate the nuisance and to charge the costs of the abatement to the County if the Owners or other interested parties do not abate the nuisance within the specified time period.
 3. Authorize County staff, pursuant to Stanislaus County Code Section 2.92.070, to dispose of any material, equipment, vehicles or other personal property removed from the property to abate a nuisance in any manner authorized by law, and to charge the costs of disposal to the owners and/or interested parties as part of the cost of abatement.
 4. Authorize County staff to charge the owners and/or interested parties for County staff time incurred to investigate through the Abatement Hearing.
 5. Order a Notice of Abatement Lien be recorded against the property if the owners and/or interested parties fail to pay the costs demanded by the County.
- Deny Staff's recommendation and determine the use of the property described as a Non-Permitted Land Use and a Nuisance in the staff report are not a violation of Stanislaus County Code Section 21.56.020, Section 21.16.040, and Section 21.56.040(D).

NOW THEREFORE, the Nuisance Abatement Hearing Board orders the Director to forward these findings and conclusions and its recommended decision to the Stanislaus County Board of Supervisors within 30 days.

Dated: June 27, 2013



Richard Gibson, Chair

Stanislaus County Nuisance Abatement Hearing Board

It should be noted that on JUL 16 2013 the Board of Supervisors will hear this matter as a consent item.

Attachment "A"

RE: File Number CE 12-0224
Assessor's Parcel Number: 038-012-009
Address: 0 BYSTRUM RD, MODESTO, CA

Inspection of the above reference property revealed the following violations of Stanislaus County Code §2.92.010:

Code Section Violation:	Corrective Action:	Compliance Date:
§21.56.020 and §21.16.040 of the Stanislaus County Code. Non-Permitted Land Use (scrap metal recycling operation).	Immediately discontinuing the non-permitted land use (scrap metal recycling operation). For information regarding the allowable uses on the property in question, you may consult Stanislaus County Planning and Community Development, located at 1010 10th Street, 3rd Floor, Modesto (209-525-6330).	05/17/2013
§21.56.040(D) of the Stanislaus County Code. No operation (scrap metal recycling operation) shall be conducted on any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke, vibration or electrical interference detectable off the site.	Discontinuing the scrap metal recycling operation which is a nuisance to the public. NOTE: Failure to comply could result in a civil/criminal action being brought against the property owner.	05/17/2013

CC: Central Valley Recycling (CVR), 524 S. 9th St, Modesto, CA 95351
Donald G. Francis, Business Owner of CVR, 2220 Millcreek Dr, Modesto, CA 95351
Thomas H. Terpstra, Attorney at Law, 578 N. Wilma Ave, STE: A, Ripon, CA 95366
Mark Niskanen, JB Anderson Land Use Planning, 139 S. Stockton Ave, Ripon, CA 95366
Paul Bollard, President of Bollard Acoustical Consultants, Inc., 3551 Bankhead Rd, Loomis, CA 95650
Angela Freitas, Planning & Community Development Director, 1010 10th St, STE: 3400, Modesto, CA 95354

Enclosures: Stanislaus County Code

9/05/12 letter to Donald Francis from Angela Freitas, Planning & Community Development Director
02/21/13 letter to Donald Francis from Angela Freitas, Planning & Community Development Director

THOMAS H. TERPSTRA

ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
578 N. WILMA AVENUE
SUITE A
RIPON, CA 95366

tterpstra@thtlaw.com

209.599.5003
F209.599.5008

July 3, 2013

SENT VIA EMAIL

Vito.Chiesa@StanCounty.com

Vito Chiesa
Chairman of the Board
Stanislaus County Board of Supervisors
1010 Tenth Street, Suite 6700
Modesto, CA 95354

Re: Central Valley Recycling/Administrative Hearing No. CE#12-0224

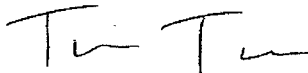
Dear Honorable Chairman Chiesa and Board Members:

This office represents Central Valley Recycling in connection with the above-referenced matter. The Nuisance Abatement Hearing Board heard this matter on June 27, 2013, and CVR received its decision on July 1, 2013. Pursuant to your County Code, we hereby respectfully request a "de novo" hearing of this matter before the Board of Supervisors. We further request that in order to allow adequate time for preparation, that the hearing be held on August 20, 2013. In discussions with the County Counsel's office, it appears that this date (which is a night meeting) would allow for more public input as well.

Thank you for your time and consideration of this request.

Very truly yours,

Law Office of Thomas H. Terpstra



Thomas H. Terpstra
Attorney-at-Law

THT:kk

THOMAS H. TERPSTRA

ATTORNEY AT LAW

A PROFESSIONAL CORPORATION

tterpstra@thtlaw.com

578 N. WILMA AVENUE

209.599.5003

SUITE A

F209.599.5008

RIPON, CA 95366

July 23, 2013

Deputy County Counsel Thomas Boze
1010 Tenth Street, Suite #6400
Modesto, California 95354

*Re: Central Valley Recycling
THT Matter ID: 2886-001*

Dear Mr. Boze:

As we discussed yesterday, I continue to believe that it would be in the best interests of all parties to resolve this matter without litigation. My client has made substantial investment in its business at this location in reliance upon the County's zoning consistency determination. Moreover, the County has denied my client procedural and substantive due process in the underlying proceedings.

Rather than being forced to litigate these issues, we once again call upon County Counsel, staff and our elected officials to develop and implement a reasonable middle ground solution, one which respects Central Valley Recycling's property rights, commits all parties to objective and verifiable mitigation measures, and preserves more than 20 jobs. We are convinced that there are practical and achievable solutions to noise, dust and other environmental concerns, and stand prepared to work with staff in an open and public process to identify and implement such measures.

Our proposal is simple, and if approved, could be documented in a short and concise settlement agreement:

1. Central Valley Recycling would agree to finalize the noise study (with County staff approval as to scope of the study) and implement mitigation measures to reduce its noise below County standards. The noise study shall be completed, and mitigation measures shall be implemented, within six (6) months of execution of the settlement agreement.

2. When all mitigation measures are in place, a six (6) month trial period will begin. If, at the end of the six (6) month trial period, the noise attenuation measures are shown not to be effective in reducing noise below the County's noise standards, as determined by objective monitoring, or if other nuisance conditions exist, Central Valley Recycling would agree to pursue a conditional use permit and go through the environmental and planning review process for this project, during which time no further scrap metal recycling could occur. Conversely, if no nuisance conditions are identified, Central Valley Recycling may continue to operate and the

Thomas Boze
July 23, 2013
Page 2

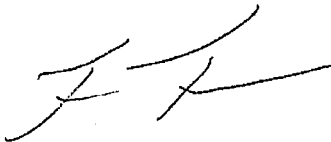
code enforcement proceedings shall be dismissed. The Board would retain jurisdiction over this matter to make determinations as needed.

3. While the process outlined above is implemented, neither party waives any of its rights against the other.

Please present this proposal to your client, and advise as to your position.

Very truly yours,

Law Office of Thomas H. Terpstra

A handwritten signature in black ink, appearing to be 'TH' with a long horizontal stroke extending to the right.

Thomas H. Terpstra
Attorney-at-Law

THT:kk

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between the County of Stanislaus ("County") and STANLEY A. GOBLIRSCH and JOYCE O. GOBLIRSCH ("Owners") and CENTRAL VALLEY RECYCLING, INC., ("CVR").

WHEREAS, the undersigned agree that the following agreement in the best interest of the Parties;

WHEREAS, the business identified as "Central Valley Recycling" (CVR) is operated on two adjoining parcels, by Donald Francis Sr. and Donald Francis Jr. Said parcels are both zoned General Commercial District (C-2) and identified as Assessor's Parcel Number (APN) 038-012-008 (524/526 S. 9th St, Modesto) and APN 038-012-009 (0 Bystrum Rd, Modesto) and are owned by Stanley A. Goblirsch and Joyce O. Goblirsch;

WHEREAS, the parcel identified as APN 038-012-008 is improved with two (2) Quonset hut-type buildings used to primarily collect California Redemption Value (CRV) recycling.

WHEREAS, the parcel identified as APN 038-012-009 is improved with a truck scale and scale house, containers, machinery, and piles utilized for the processing and sale of scrap metal items.

WHEREAS, the scrap metal portion of the business and the operating practices employed by the operator have resulted in noise and air quality complaints, which appear to relate to the crushing of motor vehicles ("Vehicle Crushing")

WHEREAS, in 2009, the County determined that CVR's scrap metal recycling operation was similar in character and purpose to permitted uses in County Code Chapter 21.56 General Commercial (C-2) and approved the issuance of a business license to CVR for scrap metal recycling, in addition to CRV type recycling, on both APN 038-012-008 and 009;

WHEREAS, on September 5, 2012, the County informed CVR that the County would not approve the business license and determined that the operation of the scrap metal recycling business is not in character with permitted C-2 uses because of complaints received from the surrounding neighborhood of nuisance conditions arising out of CVR's operations;

WHEREAS, on April 2, 2013, the County issued a Notice and Order to Abate, ("N&O")

1 for the following alleged violations: (1) §21.56.020 and §21.16.040 of the Stanislaus County
2 Code. Non-Permitted Land Use (scrap metal recycling operation); and (2) §21.56.040(D) of the
3 Stanislaus County Code. No operation (scrap metal recycling operation) shall be conducted on
4 any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke,
5 vibration or electrical interference detectable off the site;

6 WHEREAS, On June 27, 2013, based on the evidenced presented the County's Nuisance
7 Abatement Hearing Board recommended the Board of Supervisors find the property a nuisance
8 and order the abatement of the nuisance conditions;

9 WHEREAS, on July 16, 2013, the Board held a hearing on the matter and continued the
10 hearing to continuing the hearing at CVR request to August 20, 2013; and

11 WHEREAS, CVR has maintained (a) that it enjoys a vested right under applicable law to
12 operate the scrap metal recycling operation and (b) that its use of the property does not constitute
13 a nuisance; and

14 WHEREAS, the parties recognize the potential for costly and protracted litigation as to
15 the foregoing issues, and desire to implement a compromise under which CVR could operate the
16 scrap metal recycling operation under certain operating protocols and conditions which would
17 limit its environmental effects and potential nuisance complaints, and desire to resolve the
18 question of the appropriate intensity of use using the Conditional Use Permit process set forth in
19 Stanislaus County Code Chapter 21.96; and

20 WHEREAS, prior to the August 20, 2013, hearing the parties agreed in principal to the
21 following terms to resolve the matter.

22 NOW, THEREFORE, in consideration of the following covenants and agreements, the
23 Parties agree as follows:

24 1. The Parties Agree that the use of the property for scrap metal recycling, at the
25 intensity currently conducted by Owners and CVR, is a nuisance as described in the N&O.

26 2. County acknowledges that Owners and CVR's use of the Property for scrap metal
27 recycling activities as conducted on July 21, 2009 that were in compliance with Stanislaus County
28 Code section 21.56.040(D) are in character with permitted uses in the C-2 Zoning District.

1 County agrees to allow the use to continue as currently operated during the pendency of the
2 Conditional Use Permit process outlined herein under the following conditions:

- 3 a. The tin pile to be relocated 150 feet from the fence line to the east;
- 4 b. Excavator usage to be limited to areas in front of the tin pile, and the excavator
5 shall not operate in the back of the site;
- 6 c. Concrete blocks to be placed around the tin pile in a U-shape to form a partial
7 noise barrier to the east;
- 8 d. Trucks to be loaded in the front of the tin pile (further west of the nearest
9 residences to the east), and cars are to be unload in front of the tin pile instead of
10 the previous locations behind the pile;
- 11 e. Concrete blocks to be placed around the metal bailer to block the noise from the
12 nonferrous material and bailer in the direction of the nearest residences to the east;
- 13 f. Keep excavator and sheer equipment away from the back fence along Bystrum
14 Rd.;
- 15 g. Vehicle Crushing shall be limited to the hours of 11:00 a.m., to 2:00 p.m., Monday
16 through Saturday; and
- 17 h. As set forth below, Owners and CVR shall timely submit and diligently process a
18 Conditional Use Permit application seeking approval by County of scrap metal
19 recycling at greater intensity than the property was operated during the term of the
20 2009 business license.
- 21 i. All operations shall be conducted in a manner that complies with section
22 21.56.040(D) and Chapter 10.46 of the Stanislaus County Code, including without
23 limitation, all regulations and orders of the San Joaquin Valley Air Pollution
24 Control District.

25 3. County's performance under this agreement is expressly conditioned on Owners
26 and CVR diligently applying for and processing the Conditional Use Permit as described herein.

27 ///

28 ///

OWNERS' OBLIGATIONS

4. Owners shall:

a. Within 14 days of the full execution of this Agreement either:

i. Apply and pay the associated fee to the County for the Conditional Use Permit ("CUP") regarding the subject scrap metal recycling use, or, in the alternative, authorize CVR to make and process said application(s). Owner shall take all reasonable steps to complete the approval process.

ii. Cause CVR to cease the subject scrap metal recycling use that is not consistent with the terms of this Agreement.

CVR's OBLIGATIONS

5. CVR shall:

a. Cooperate with Owner in making application for and subsequent processing of a Conditional Use Permit for the subject scrap metal recycling use.

RELEASES

6. Release: Owners and CVR on behalf of themselves, their heirs, executors, administrators, successors and assigns, in consideration of the terms set forth herein, hereby fully release the County of Stanislaus and each of its entities, agents, contractors, officers and employees, known or unknown, from all claims and causes of action by reason of any injury and/or damage which may have arisen before the date of this Agreement.

7. Owners and CVR certify that they have read section 1542 of the Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

8. Owners and CVR hereby waive application of section 1542 of the Civil Code.

9. Owners and CVR understand and acknowledge that the significance and

1 consequences of this waiver of section 1542 of the Civil Code is that the Owners and CVR will
2 not be permitted to make any claims for injury and/or damages that may exist as of the date of
3 this release but which Owners and CVR do not know exist, and which, if known, would
4 materially affect the Owners' and CVR's decision to execute this release, regardless of whether
5 Owners and CVRs' lack of knowledge is the result of ignorance, oversight, error, negligence or
6 any other cause.

7 10. Attorney Fees and Costs: The parties agree to bear their respective costs
8 associated with this matter, which includes but is not limited to attorneys' fees, expert and
9 consultant fees and costs, and any and all costs incurred by each side respectively.

10 11. County's Release: Subject to the reservations set forth herein and Owners' and
11 CVR's performance of all the duties and obligations set forth in this Agreement, County hereby
12 fully releases the Owners and CVR from all claims and causes of action, which could or might
13 have been alleged arising out of or relating to the facts and circumstances described in this
14 Agreement.

15 12. New Violations: Owners and CVR acknowledge that nothing in this Agreement
16 precludes any Federal, State, or County agency or department from assessing new penalties,
17 issuing new orders, or taking any other actions for violations of laws or orders that occur after the
18 date this Agreement.

19 13. Owners and CVR acknowledge and agree that nothing in this Agreement precludes
20 the County from immediately taking action to abate any violation of any State or Federal law
21 including but not limited to, the California Building Code, California Housing Code, the
22 California 2009-0009-DWQ Construction General Permit, or the Federal Porter-Cologne Clean
23 Water Act present upon the Property. Owners and CVR acknowledge and agree that the County
24 may take all appropriate legal action to abate any violation of law occurring upon the Property
25 that in the opinion of the County constitutes an imminent health hazard or a significant threat or
26 danger to the health of the County's residents.

27 14. Owners and CVR acknowledge and agree that nothing in this Agreement precludes
28 any Federal, State, or County agency or department from assessing penalties, issuing orders, or

1 taking any other actions for violations of laws or orders relating to matters or conditions existing
2 prior to or concurrently with the date of this Agreement so long as such matters or conditions do
3 not arise out of or relate to the facts and circumstances which are the subject of this Agreement.

4 15. Owners and CVR acknowledge and agree that nothing in this Agreement precludes
5 any Federal, State, or County agency or department from assessing new penalties, issuing new
6 orders, or taking any other actions for violations of laws or orders that occur after the date of this
7 Agreement, including new violations relating to matters or conditions existing prior to or
8 concurrently with the date of this agreement so long as such matters or conditions do not arise out
9 of or relate to the facts and circumstances which are the subject of this Agreement.

10 16. Owners and CVR acknowledge and agree that nothing in this Agreement shall be
11 construed as an approval of any particular land use nor shall it create an expectation that any
12 particular land use will be approved. Neither performance under this agreement, nor any sums
13 spent by Owners or CVR in performing work required under this Agreement, nor any sums spent
14 in preparation to obtain a building permit, nor the issuance of any building permit, shall create a
15 vested right to proceed with any particular development plans.

16
17 **OTHER MATTERS**

18 17. Governing Law and Integration: This is a fully integrated Agreement, made and
19 entered into in the State of California and shall in all respects be interpreted, enforced and
20 governed under the laws of California, except that parole evidence shall not be admissible to
21 interpret, vary or modify any of the terms of this Agreement. The language of all parts of this
22 Agreement shall in all cases be construed as a whole, according to its fair meaning, and not
23 strictly for or against any of the parties. This Agreement sets forth the entire agreement between
24 the parties with regard to the subject matter hereof. All agreements, covenants, representations
25 and warranties, express or implied, oral or written, of the parties with regard to the subject matter
26 hereof are contained herein, and the documents referred to herein or implementing the provisions
27 hereof. No other agreements, covenants, representations or warranties, express or implied, oral or
28 written, have been made by either party to the other with respect to the subject matter of the

1 Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged
2 agreements and representations, covenants, and warranties with respect to the subject matter
3 hereof are waived, merged herein and superseded hereby.

4 18. Amendment: This Agreement cannot be amended, altered, modified, waived or
5 superseded, in the whole or in part, except by a written agreement so stating which is signed by
6 all parties to this Agreement and approved by a court of competent jurisdiction. No delay or
7 omissions on the part of any party to this Agreement shall operate as a waiver of any such right or
8 any other right. Waiver of any one breach of any provision hereof shall not be deemed to be a
9 waiver of any other breach of the same or any other provision hereof.

10 19. Counterparts: The parties hereby agree that facsimile signatures of the parties to
11 this Agreement shall be as binding and enforceable as original signatures; and that this
12 Agreement may be executed in multiple counterparts with the counterparts together being deemed
13 to constitute the complete agreement of the parties.

14 20. Advice of Attorney: Owners and CVR warrant and represent that in executing
15 this Agreement they have relied on legal advice from the attorney of their choice, that the terms
16 of this Agreement and its consequences have been completely read and explained to the Owners
17 and CVRs by their attorney, and that Owners and CVRs fully understand and agree to be bound
18 by said terms.

19 21. Warranties: Each of the parties to this Agreement warrants that it or they have not
20 assigned or transferred any cause of action, claim for relief, or other matter released under the
21 Agreement. Each person who executes this Agreement on behalf of any party to the Agreement
22 represents and warrants that he or they have been duly authorized by such party to execute the
23 Agreement.

24 22. This Agreement shall inure to the benefit of and be binding on each party, as well
25 as its or their respective successors or assigns.

26 23. Section headings are for convenience only and are not part of the Agreement.

27 24. All notices, requests, demands and other communications under the Agreement
28 shall be in writing and by personal delivery or overnight courier, and shall be deemed having

1 been duly given on the date of receipt (receipt shall also include communications that are
2 delivered to the designated address and left at the premises if no one is at the premises). Notices
3 shall be addressed as follows, or as the parties may subsequently designate by written notice:

4
5 To County: STANISLAUS COUNTY COUNSEL
6 Attn: THOMAS E. BOZE, Deputy County Counsel
7 City-County Administration Building
8 1010 Tenth Street, Suite 6400
9 Modesto, California 95354

10 To Owners: Stanley A. Goblirsch
11 Joyce O. Goblirsch
12 P.O. Box 1010
13 Ceres, CA 5307

14 To CVR: Central Valley Recycling
15 524 9th Street
16 Modesto, CA 95351

17
18 **IN WITNESS WHEREOF**, the Parties have executed the Agreement in the County of
19 Stanislaus, State of California.
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNTY OF STANISLAUS

OWNERS:

By: _____
Vito Chiesa,
Chairman

By: _____
Stanley A. Goblirsch

By: _____
Joyce O. Goblirsch

ATTEST:
Christine Ferraro Tallman,
Clerk

CENTRAL VALLEY RECYCLING

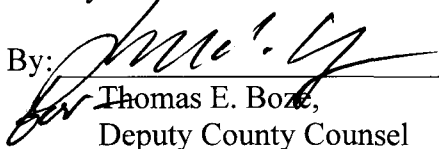
By: _____
Liz King,
Clerk

By: _____
Donald Francis Sr.

By: _____
Donald Francis Jr.

APPROVED AS TO FORM:

John P. Doering
County Counsel

By:  _____
Thomas E. Boze,
Deputy County Counsel

H:\PROJECTS\DER\Code Enforcement\Central Valley Recycling\Settlement Agreement.docx

SETTLEMENT AGREEMENT

1
2 This Settlement Agreement ("Agreement") is entered into by and between the County of
3 Stanislaus ("County") and STANLEY A. GOBLIRSCH and JOYCE O. GOBLIRSCH
4 ("Owners") and CENTRAL VALLEY RECYCLING, INC., ("CVR").

5 WHEREAS, the undersigned agree that the following agreement in the best interest of the
6 Parties;

7 WHEREAS, the business identified as "Central Valley Recycling" (CVR) is operated on
8 two adjoining parcels, by Donald Francis Sr. and Donald Francis Jr. Said parcels are both zoned
9 General Commercial District (C-2) and identified as Assessor's Parcel Number (APN) 038-012-
10 008 (524/526 S. 9th St, Modesto) and APN 038-012-009 (0 Bystrum Rd, Modesto) and are
11 owned by Stanley A. Goblirsch and Joyce O. Goblirsch;

12 WHEREAS, the parcel identified as APN 038-012-008 is improved with two (2) Quonset
13 hut-type buildings used to primarily collect California Redemption Value (CRV) recycling.

14 WHEREAS, the parcel identified as APN 038-012-009 is improved with a truck scale and
15 scale house, containers, machinery, and piles utilized for the processing and sale of scrap metal
16 items.

17 WHEREAS, the scrap metal portion of the business and the operating practices employed
18 by the operator have resulted in noise and air quality complaints, which appear to relate to the
19 crushing of motor vehicles ("Vehicle Crushing")

20 WHEREAS, in 2009, the County determined that CVR's scrap metal recycling operation
21 was similar in character and purpose to permitted uses in County Code Chapter 21.56 General
22 Commercial (C-2) and approved the issuance of a business license to CVR for scrap metal
23 recycling, in addition to CRV type recycling, on both APN 038-012-008 and 009;

24 WHEREAS, on September 5, 2012, the County informed CVR that the County would not
25 approve the business license and determined that the operation of the scrap metal recycling
26 business is not in character with permitted C-2 uses because of complaints received from the
27 surrounding neighborhood of nuisance conditions arising out of CVR's operations;

28 WHEREAS, on April 2, 2013, the County issued a Notice and Order to Abate, ("N&O")

1 for the following alleged violations: (1) §21.56.020 and §21.16.040 of the Stanislaus County
2 Code. Non-Permitted Land Use (scrap metal recycling operation); and (2) §21.56.040(D) of the
3 Stanislaus County Code. No operation (scrap metal recycling operation) shall be conducted on
4 any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke,
5 vibration or electrical interference detectable off the site;

6 WHEREAS, On June 27, 2013, based on the evidenced presented the County's Nuisance
7 Abatement Hearing Board recommended the Board of Supervisors find the property a nuisance
8 and order the abatement of the nuisance conditions;

9 WHEREAS, on July 16, 2013, the Board held a hearing on the matter and continued the
10 hearing to continuing the hearing at CVR request to August 20, 2013; and

11 WHEREAS, CVR has maintained (a) that it enjoys a vested right under applicable law to
12 operate the scrap metal recycling operation and (b) that its use of the property does not constitute
13 a nuisance; and

14 WHEREAS, the parties recognize the potential for costly and protracted litigation as to
15 the foregoing issues, and desire to implement a compromise under which CVR could operate the
16 scrap metal recycling operation under certain operating protocols and conditions which would
17 limit its environmental effects and potential nuisance complaints, and desire to resolve the
18 question of the appropriate intensity of use using the Conditional Use Permit process set forth in
19 Stanislaus County Code Chapter 21.96; and

20 WHEREAS, prior to the August 20, 2013, hearing the parties agreed in principal to the
21 following terms to resolve the matter.

22 NOW, THEREFORE, in consideration of the following covenants and agreements, the
23 Parties agree as follows:

24 1. The Parties Agree that the use of the property for scrap metal recycling, at the
25 intensity currently conducted by Owners and CVR, is a nuisance as described in the N&O.

26 2. County acknowledges that Owners and CVR's use of the Property for scrap metal
27 recycling activities as conducted on July 21, 2009 that were in compliance with Stanislaus County
28 Code section 21.56.040(D) are in character with permitted uses in the C-2 Zoning District.

1 County agrees to allow the use to continue as currently operated during the pendency of the
2 Conditional Use Permit process outlined herein under the following conditions:

- 3 a. The tin pile to be relocated 150 feet from the fence line to the east;
- 4 b. Excavator usage to be limited to areas in front of the tin pile, and the excavator
5 shall not operate in the back of the site;
- 6 c. Concrete blocks to be placed around the tin pile in a U-shape to form a partial
7 noise barrier to the east;
- 8 d. Trucks to be loaded in the front of the tin pile (further west of the nearest
9 residences to the east), and cars are to be unload in front of the tin pile instead of
10 the previous locations behind the pile;
- 11 e. Concrete blocks to be placed around the metal bailer to block the noise from the
12 nonferrous material and bailer in the direction of the nearest residences to the east;
- 13 f. Keep excavator and sheer equipment away from the back fence along Bystrum
14 Rd.;
- 15 g. Vehicle Crushing shall be limited to the hours of 11:00 a.m., to 2:00 p.m., Monday
16 through Saturday; ~~and~~
- 17 h. As set forth below, Owners and CVR shall timely submit and diligently process a
18 Conditional Use Permit application seeking approval by County of scrap metal
19 recycling at greater intensity than the property was operated ~~during the term of~~
20 ~~theas of July 21, 2009 business license.; and~~
- 21 i. All operations shall be conducted in a manner that complies with section
22 21.56.040(D) and Chapter 10.46 of the Stanislaus County Code, including without
23 limitation, all regulations and orders of the San Joaquin Valley Air Pollution
24 Control District.

25 3. County's performance under this agreement is expressly conditioned on Owners
26 and CVR diligently applying for and processing the Conditional Use Permit as described herein.

27 ///

28 ///

OWNERS' OBLIGATIONS

- 4. Owners shall:
 - a. Within 14 days of the full execution of this Agreement either:
 - i. Apply and pay the associated fee to the County for the Conditional Use Permit ("CUP") regarding the subject scrap metal recycling use, or, in the alternative, authorize CVR to make and process said application(s). Owner shall take all reasonable steps to complete the approval process.
 - ii. Cause CVR to cease the subject scrap metal recycling use that is not consistent with the terms of this Agreement.

CVR's OBLIGATIONS

- 5. CVR shall:
 - a. Cooperate with Owner in making application for and subsequent processing of a Conditional Use Permit for the subject scrap metal recycling use.

RELEASES

6. Release: Owners and CVR on behalf of themselves, their heirs, executors, administrators, successors and assigns, in consideration of the terms set forth herein, hereby fully release the County of Stanislaus and each of its entities, agents, contractors, officers and employees, known or unknown, from all claims and causes of action by reason of any injury and/or damage which may have arisen before the date of this Agreement.

7. Owners and CVR certify that they have read section 1542 of the Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

- 8. Owners and CVR hereby waive application of section 1542 of the Civil Code.
- 9. Owners and CVR understand and acknowledge that the significance and

1 consequences of this waiver of section 1542 of the Civil Code is that the Owners and CVR will
2 not be permitted to make any claims for injury and/or damages that may exist as of the date of
3 this release but which Owners and CVR do not know exist, and which, if known, would
4 materially affect the Owners' and CVR's decision to execute this release, regardless of whether
5 Owners and CVR's lack of knowledge is the result of ignorance, oversight, error, negligence or
6 any other cause.

7 10. Attorney Fees and Costs: The parties agree to bear their respective costs
8 associated with this matter, which includes but is not limited to attorneys' fees, expert and
9 consultant fees and costs, and any and all costs incurred by each side respectively.

10 11. County's Release: Subject to the reservations set forth herein and Owners' and
11 CVR's performance of all the duties and obligations set forth in this Agreement, County hereby
12 fully releases the Owners and CVR from all claims and causes of action, which could or might
13 have been alleged arising out of or relating to the facts and circumstances described in this
14 Agreement.

15 12. New Violations: Owners and CVR acknowledge that nothing in this Agreement
16 precludes any Federal, State, or County agency or department from assessing new penalties,
17 issuing new orders, or taking any other actions for violations of laws or orders that occur after the
18 date this Agreement.

19 13. Owners and CVR acknowledge and agree that nothing in this Agreement precludes
20 the County from immediately taking action to abate any violation of any State or Federal law
21 including but not limited to, the California Building Code, California Housing Code, the
22 California 2009-0009-DWQ Construction General Permit, or the Federal Porter-Cologne Clean
23 Water Act present upon the Property. Owners and CVR acknowledge and agree that the County
24 may take all appropriate legal action to abate any violation of law occurring upon the Property
25 that in the opinion of the County constitutes an imminent health hazard or a significant threat or
26 danger to the health of the County's residents.

27 14. Owners and CVR acknowledge and agree that nothing in this Agreement precludes
28 any Federal, State, or County agency or department from assessing penalties, issuing orders, or

1 taking any other actions for violations of laws or orders relating to matters or conditions existing
2 prior to or concurrently with the date of this Agreement so long as such matters or conditions do
3 not arise out of or relate to the facts and circumstances which are the subject of this Agreement.

4 15. Owners and CVR acknowledge and agree that nothing in this Agreement precludes
5 any Federal, State, or County agency or department from assessing new penalties, issuing new
6 orders, or taking any other actions for violations of laws or orders that occur after the date of this
7 Agreement, including new violations relating to matters or conditions existing prior to or
8 concurrently with the date of this agreement so long as such matters or conditions do not arise out
9 of or relate to the facts and circumstances which are the subject of this Agreement.

10 16. Owners and CVR acknowledge and agree that nothing in this Agreement shall be
11 construed as an approval of any particular land use nor shall it create an expectation that any
12 particular land use will be approved. Neither performance under this agreement, nor any sums
13 spent by Owners or CVR in performing work required under this Agreement, nor any sums spent
14 in preparation to obtain a building permit, nor the issuance of any building permit, shall create a
15 vested right to proceed with any particular development plans.

16
17 **OTHER MATTERS**

18 17. Governing Law and Integration: This is a fully integrated Agreement, made and
19 entered into in the State of California and shall in all respects be interpreted, enforced and
20 governed under the laws of California, except that parole evidence shall not be admissible to
21 interpret, vary or modify any of the terms of this Agreement. The language of all parts of this
22 Agreement shall in all cases be construed as a whole, according to its fair meaning, and not
23 strictly for or against any of the parties. This Agreement sets forth the entire agreement between
24 the parties with regard to the subject matter hereof. All agreements, covenants, representations
25 and warranties, express or implied, oral or written, of the parties with regard to the subject matter
26 hereof are contained herein, and the documents referred to herein or implementing the provisions
27 hereof. No other agreements, covenants, representations or warranties, express or implied, oral or
28 written, have been made by either party to the other with respect to the subject matter of the

1 Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged
2 agreements and representations, covenants, and warranties with respect to the subject matter
3 hereof are waived, merged herein and superseded hereby.

4 18. Amendment: This Agreement cannot be amended, altered, modified, waived or
5 superseded, in the whole or in part, except by a written agreement so stating which is signed by
6 all parties to this Agreement and approved by a court of competent jurisdiction. No delay or
7 omissions on the part of any party to this Agreement shall operate as a waiver of any such right or
8 any other right. Waiver of any one breach of any provision hereof shall not be deemed to be a
9 waiver of any other breach of the same or any other provision hereof.

10 19. Counterparts: The parties hereby agree that facsimile signatures of the parties to
11 this Agreement shall be as binding and enforceable as original signatures; and that this
12 Agreement may be executed in multiple counterparts with the counterparts together being deemed
13 to constitute the complete agreement of the parties.

14 20. Advice of Attorney: Owners and CVR warrant and represent that in executing
15 this Agreement they have relied on legal advice from the attorney of their choice, that the terms
16 of this Agreement and its consequences have been completely read and explained to the Owners
17 and CVRs by their attorney, and that Owners and CVRs fully understand and agree to be bound
18 by said terms.

19 21. Warranties: Each of the parties to this Agreement warrants that it or they have not
20 assigned or transferred any cause of action, claim for relief, or other matter released under the
21 Agreement. Each person who executes this Agreement on behalf of any party to the Agreement
22 represents and warrants that he or they have been duly authorized by such party to execute the
23 Agreement.

24 22. This Agreement shall inure to the benefit of and be binding on each party, as well
25 as its or their respective successors or assigns.

26 23. Section headings are for convenience only and are not part of the Agreement.

27 24. All notices, requests, demands and other communications under the Agreement
28 shall be in writing and by personal delivery or overnight courier, and shall be deemed having

1 been duly given on the date of receipt (receipt shall also include communications that are
2 delivered to the designated address and left at the premises if no one is at the premises). Notices
3 shall be addressed as follows, or as the parties may subsequently designate by written notice:

4
5 To County: STANISLAUS COUNTY COUNSEL
6 Attn: THOMAS E. BOZE, Deputy County Counsel
7 City-County Administration Building
8 1010 Tenth Street, Suite 6400
9 Modesto, California 95354

10 To Owners: Stanley A. Goblirsch
11 Joyce O. Goblirsch
12 P.O. Box 1010
13 Ceres, CA 5307

14 To CVR: Central Valley Recycling
15 524 9th Street
16 Modesto, CA 95351

17
18 **IN WITNESS WHEREOF**, the Parties have executed the Agreement in the County of
19 Stanislaus, State of California.
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNTY OF STANISLAUS

OWNERS:

By: _____
Vito Chiesa,
Chairman

By: _____
Stanley A. Goblirsch

By: _____
Joyce O. Goblirsch

ATTEST:
Christine Ferraro Tallman,
Clerk

CENTRAL VALLEY RECYCLING

By: _____
Liz King,
Clerk

By: _____
Donald Francis Sr.

By: _____
Donald Francis Jr.

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: _____
Thomas E. Boze,
Deputy County Counsel

H:\PROJECTS\DER\Code Enforcement\Central Valley Recycling\Settlement Agreement.docx

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between the County of Stanislaus ("County") and STANLEY A. GOBLIRSCH and JOYCE O. GOBLIRSCH ("Owners") and CENTRAL VALLEY RECYCLING, INC., ("CVR").

WHEREAS, the undersigned agree that the following agreement in the best interest of the Parties;

WHEREAS, the business identified as "Central Valley Recycling" (CVR) is operated on two adjoining parcels, by Donald Francis Sr. and Donald Francis Jr. Said parcels are both zoned General Commercial District (C-2) and identified as Assessor's Parcel Number (APN) 038-012-008 (524/526 S. 9th St, Modesto) and APN 038-012-009 (0 Bystrum Rd, Modesto) and are owned by Stanley A. Goblirsch and Joyce O. Goblirsch;

WHEREAS, the parcel identified as APN 038-012-008 is improved with two (2) Quonset hut-type buildings used to primarily collect California Redemption Value (CRV) recycling.

WHEREAS, the parcel identified as APN 038-012-009 is improved with a truck scale and scale house, containers, machinery, and piles utilized for the processing and sale of scrap metal items.

WHEREAS, the scrap metal portion of the business and the operating practices employed by the operator have resulted in noise and air quality complaints, which appear to relate to the crushing of motor vehicles ("Vehicle Crushing")

WHEREAS, in 2009, the County determined that CVR's scrap metal recycling operation was similar in character and purpose to permitted uses in County Code Chapter 21.56 General Commercial (C-2) and approved the issuance of a business license to CVR for scrap metal recycling, in addition to CRV type recycling, on both APN 038-012-008 and 009;

WHEREAS, on September 5, 2012, the County informed CVR that the County would not approve the business license and determined that the operation of the scrap metal recycling business is not in character with permitted C-2 uses because of complaints received from the surrounding neighborhood of nuisance conditions arising out of CVR's operations;

WHEREAS, on April 2, 2013, the County issued a Notice and Order to Abate, ("N&O")

1 for the following alleged violations: (1) §21.56.020 and §21.16.040 of the Stanislaus County
2 Code. Non-Permitted Land Use (scrap metal recycling operation); and (2) §21.56.040(D) of the
3 Stanislaus County Code. No operation (scrap metal recycling operation) shall be conducted on
4 any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke,
5 vibration or electrical interference detectable off the site;

6 WHEREAS, On June 27, 2013, based on the evidenced presented the County's Nuisance
7 Abatement Hearing Board recommended the Board of Supervisors find the property a nuisance
8 and order the abatement of the nuisance conditions;

9 WHEREAS, on July 16, 2013, the Board held a hearing on the matter and continued the
10 hearing to continuing the hearing at CVR request to August 20, 2013; and

11 WHEREAS, CVR has maintained (a) that it enjoys a vested right under applicable law to
12 operate the scrap metal recycling operation and (b) that its use of the property does not constitute
13 a nuisance; and

14 WHEREAS, the parties recognize the potential for costly and protracted litigation as to
15 the foregoing issues, and desire to implement a compromise under which CVR could operate the
16 scrap metal recycling operation under certain operating protocols and conditions which would
17 limit its environmental effects and potential nuisance complaints, and desire to resolve the
18 question of the appropriate intensity of use using the Conditional Use Permit process set forth in
19 Stanislaus County Code Chapter 21.96; and

20 WHEREAS, prior to the August 20, 2013, hearing the parties agreed in principal to the
21 following terms to resolve the matter.

22 NOW, THEREFORE, in consideration of the following covenants and agreements, the
23 Parties agree as follows:

24 1. The Parties Agree that the use of the property for scrap metal recycling, at the
25 intensity currently conducted by Owners and CVR, is a nuisance as described in the N&O.

26 2. County acknowledges that Owners and CVR's use of the Property for scrap metal
27 recycling activities as conducted on July 21, 2009 that were in compliance with Stanislaus County
28 Code section 21.56.040(D) are in character with permitted uses in the C-2 Zoning District.

1 County agrees to allow the use to continue as currently operated during the pendency of the
2 Conditional Use Permit process outlined herein under the following conditions:

- 3 a. The tin pile to be relocated 150 feet from the fence line to the east;
- 4 b. Excavator usage to be limited to areas in front of the tin pile, and the excavator
5 shall not operate in the back of the site;
- 6 c. Concrete blocks to be placed around the tin pile in a U-shape to form a partial
7 noise barrier to the east;
- 8 d. Trucks to be loaded in the front of the tin pile (further west of the nearest
9 residences to the east), and cars are to be unload in front of the tin pile instead of
10 the previous locations behind the pile;
- 11 e. Concrete blocks to be placed around the metal bailer to block the noise from the
12 nonferrous material and bailer in the direction of the nearest residences to the east;
- 13 f. Keep excavator and sheer equipment away from the back fence along Bystrum
14 Rd.;
- 15 g. Vehicle Crushing shall be limited to the hours of 11:00 a.m., to 2:00 p.m., Monday
16 through Saturday;
- 17 h. As set forth below, Owners and CVR shall timely submit and diligently process a
18 Conditional Use Permit application seeking approval by County of scrap metal
19 recycling at greater intensity than the property was operated as of July 21, 2009;
20 and
- 21 i. All operations shall be conducted in a manner that complies with section
22 21.56.040(D) and Chapter 10.46 of the Stanislaus County Code, including without
23 limitation, all regulations and orders of the San Joaquin Valley Air Pollution
24 Control District.

25 3. County's performance under this agreement is expressly conditioned on Owners
26 and CVR diligently applying for and processing the Conditional Use Permit as described herein.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

OWNERS' OBLIGATIONS

- 4. Owners shall:
 - a. Within 14 days of the full execution of this Agreement either:
 - i. Apply and pay the associated fee to the County for the Conditional Use Permit ("CUP") regarding the subject scrap metal recycling use, or, in the alternative, authorize CVR to make and process said application(s). Owner shall take all reasonable steps to complete the approval process.
 - ii. Cause CVR to cease the subject scrap metal recycling use that is not consistent with the terms of this Agreement.

CVR's OBLIGATIONS

- 5. CVR shall:
 - a. Cooperate with Owner in making application for and subsequent processing of a Conditional Use Permit for the subject scrap metal recycling use.

RELEASES

6. Release: Owners and CVR on behalf of themselves, their heirs, executors, administrators, successors and assigns, in consideration of the terms set forth herein, hereby fully release the County of Stanislaus and each of its entities, agents, contractors, officers and employees, known or unknown, from all claims and causes of action by reason of any injury and/or damage which may have arisen before the date of this Agreement.

7. Owners and CVR certify that they have read section 1542 of the Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

- 8. Owners and CVR hereby waive application of section 1542 of the Civil Code.
- 9. Owners and CVR understand and acknowledge that the significance and

1 consequences of this waiver of section 1542 of the Civil Code is that the Owners and CVR will
2 not be permitted to make any claims for injury and/or damages that may exist as of the date of
3 this release but which Owners and CVR do not know exist, and which, if known, would
4 materially affect the Owners' and CVR's decision to execute this release, regardless of whether
5 Owners and CVR's lack of knowledge is the result of ignorance, oversight, error, negligence or
6 any other cause.

7 10. Attorney Fees and Costs: The parties agree to bear their respective costs
8 associated with this matter, which includes but is not limited to attorneys' fees, expert and
9 consultant fees and costs, and any and all costs incurred by each side respectively.

10 11. County's Release: Subject to the reservations set forth herein and Owners' and
11 CVR's performance of all the duties and obligations set forth in this Agreement, County hereby
12 fully releases the Owners and CVR from all claims and causes of action, which could or might
13 have been alleged arising out of or relating to the facts and circumstances described in this
14 Agreement.

15 12. New Violations: Owners and CVR acknowledge that nothing in this Agreement
16 precludes any Federal, State, or County agency or department from assessing new penalties,
17 issuing new orders, or taking any other actions for violations of laws or orders that occur after the
18 date this Agreement.

19 13. Owners and CVR acknowledge and agree that nothing in this Agreement precludes
20 the County from immediately taking action to abate any violation of any State or Federal law
21 including but not limited to, the California Building Code, California Housing Code, the
22 California 2009-0009-DWQ Construction General Permit, or the Federal Porter-Cologne Clean
23 Water Act present upon the Property. Owners and CVR acknowledge and agree that the County
24 may take all appropriate legal action to abate any violation of law occurring upon the Property
25 that in the opinion of the County constitutes an imminent health hazard or a significant threat or
26 danger to the health of the County's residents.

27 14. Owners and CVR acknowledge and agree that nothing in this Agreement precludes
28 any Federal, State, or County agency or department from assessing penalties, issuing orders, or

1 taking any other actions for violations of laws or orders relating to matters or conditions existing
2 prior to or concurrently with the date of this Agreement so long as such matters or conditions do
3 not arise out of or relate to the facts and circumstances which are the subject of this Agreement.

4 15. Owners and CVR acknowledge and agree that nothing in this Agreement precludes
5 any Federal, State, or County agency or department from assessing new penalties, issuing new
6 orders, or taking any other actions for violations of laws or orders that occur after the date of this
7 Agreement, including new violations relating to matters or conditions existing prior to or
8 concurrently with the date of this agreement so long as such matters or conditions do not arise out
9 of or relate to the facts and circumstances which are the subject of this Agreement.

10 16. Owners and CVR acknowledge and agree that nothing in this Agreement shall be
11 construed as an approval of any particular land use nor shall it create an expectation that any
12 particular land use will be approved. Neither performance under this agreement, nor any sums
13 spent by Owners or CVR in performing work required under this Agreement, nor any sums spent
14 in preparation to obtain a building permit, nor the issuance of any building permit, shall create a
15 vested right to proceed with any particular development plans.

16
17 **OTHER MATTERS**

18 17. Governing Law and Integration: This is a fully integrated Agreement, made and
19 entered into in the State of California and shall in all respects be interpreted, enforced and
20 governed under the laws of California, except that parole evidence shall not be admissible to
21 interpret, vary or modify any of the terms of this Agreement. The language of all parts of this
22 Agreement shall in all cases be construed as a whole, according to its fair meaning, and not
23 strictly for or against any of the parties. This Agreement sets forth the entire agreement between
24 the parties with regard to the subject matter hereof. All agreements, covenants, representations
25 and warranties, express or implied, oral or written, of the parties with regard to the subject matter
26 hereof are contained herein, and the documents referred to herein or implementing the provisions
27 hereof. No other agreements, covenants, representations or warranties, express or implied, oral or
28 written, have been made by either party to the other with respect to the subject matter of the

1 Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged
2 agreements and representations, covenants, and warranties with respect to the subject matter
3 hereof are waived, merged herein and superseded hereby.

4 18. Amendment: This Agreement cannot be amended, altered, modified, waived or
5 superseded, in the whole or in part, except by a written agreement so stating which is signed by
6 all parties to this Agreement and approved by a court of competent jurisdiction. No delay or
7 omissions on the part of any party to this Agreement shall operate as a waiver of any such right or
8 any other right. Waiver of any one breach of any provision hereof shall not be deemed to be a
9 waiver of any other breach of the same or any other provision hereof.

10 19. Counterparts: The parties hereby agree that facsimile signatures of the parties to
11 this Agreement shall be as binding and enforceable as original signatures; and that this
12 Agreement may be executed in multiple counterparts with the counterparts together being deemed
13 to constitute the complete agreement of the parties.

14 20. Advice of Attorney: Owners and CVR warrant and represent that in executing
15 this Agreement they have relied on legal advice from the attorney of their choice, that the terms
16 of this Agreement and its consequences have been completely read and explained to the Owners
17 and CVRs by their attorney, and that Owners and CVRs fully understand and agree to be bound
18 by said terms.

19 21. Warranties: Each of the parties to this Agreement warrants that it or they have not
20 assigned or transferred any cause of action, claim for relief, or other matter released under the
21 Agreement. Each person who executes this Agreement on behalf of any party to the Agreement
22 represents and warrants that he or they have been duly authorized by such party to execute the
23 Agreement.

24 22. This Agreement shall inure to the benefit of and be binding on each party, as well
25 as its or their respective successors or assigns.

26 23. Section headings are for convenience only and are not part of the Agreement.

27 24. All notices, requests, demands and other communications under the Agreement
28 shall be in writing and by personal delivery or overnight courier, and shall be deemed having

1 been duly given on the date of receipt (receipt shall also include communications that are
2 delivered to the designated address and left at the premises if no one is at the premises). Notices
3 shall be addressed as follows, or as the parties may subsequently designate by written notice:

4
5 To County: STANISLAUS COUNTY COUNSEL
6 Attn: THOMAS E. BOZE, Deputy County Counsel
7 City-County Administration Building
8 1010 Tenth Street, Suite 6400
9 Modesto, California 95354

10 To Owners: Stanley A. Goblirsch
11 Joyce O. Goblirsch
12 P.O. Box 1010
13 Ceres, CA 5307

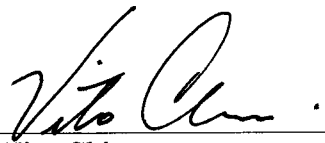
14 To CVR: Central Valley Recycling
15 524 9th Street
16 Modesto, CA 95351

17
18 **IN WITNESS WHEREOF**, the Parties have executed the Agreement in the County of
19 Stanislaus, State of California.
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNTY OF STANISLAUS

OWNERS:


By: 
Vito Chiesa,
Chairman

By: _____
Stanley A. Goblirsch

By: _____
Joyce O. Goblirsch

ATTEST:
Christine Ferraro Tallman,
Clerk

CENTRAL VALLEY RECYCLING

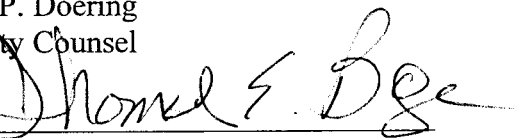
By: 
Liz King,
Clerk

By: _____
Donald Francis Sr.

By: _____
Donald Francis Jr.

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Thomas E. Boze,
Deputy County Counsel

H:\PROJECTS\DER\Code Enforcement\Central Valley Recycling\Settlement Agreement.docx

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNTY OF STANISLAUS

OWNERS:

By: _____
Vito Chiesa,
Chairman

By: _____
Stanley A. Goblirsch

By: _____
Joyce O. Goblirsch

ATTEST:
Christine Ferraro Tallman,
Clerk

CENTRAL VALLEY RECYCLING

By: _____
Liz King,
Clerk

By: 
Donald Francis Sr.

By: 
Donald Francis Jr.

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: _____
Thomas E. Boze,
Deputy County Counsel

H:\PROJECTS\DER\Code Enforcement\Central Valley Recycling\Settlement Agreement.docx

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNTY OF STANISLAUS

By: _____
Vito Chiesa,
Chairman

ATTEST:
Christine Ferraro Tallman,
Clerk

By: _____
Liz King,
Clerk

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: _____
Thomas E. Boze,
Deputy County Counsel

H:\PROJECTS\DER\Code Enforcement\Central Valley Recycling\Settlement Agreement.docx

OWNERS:

By: Stan Goblirsch
Stanley A. Goblirsch

By: Joyce O. Goblirsch
Joyce O. Goblirsch

CENTRAL VALLEY RECYCLING

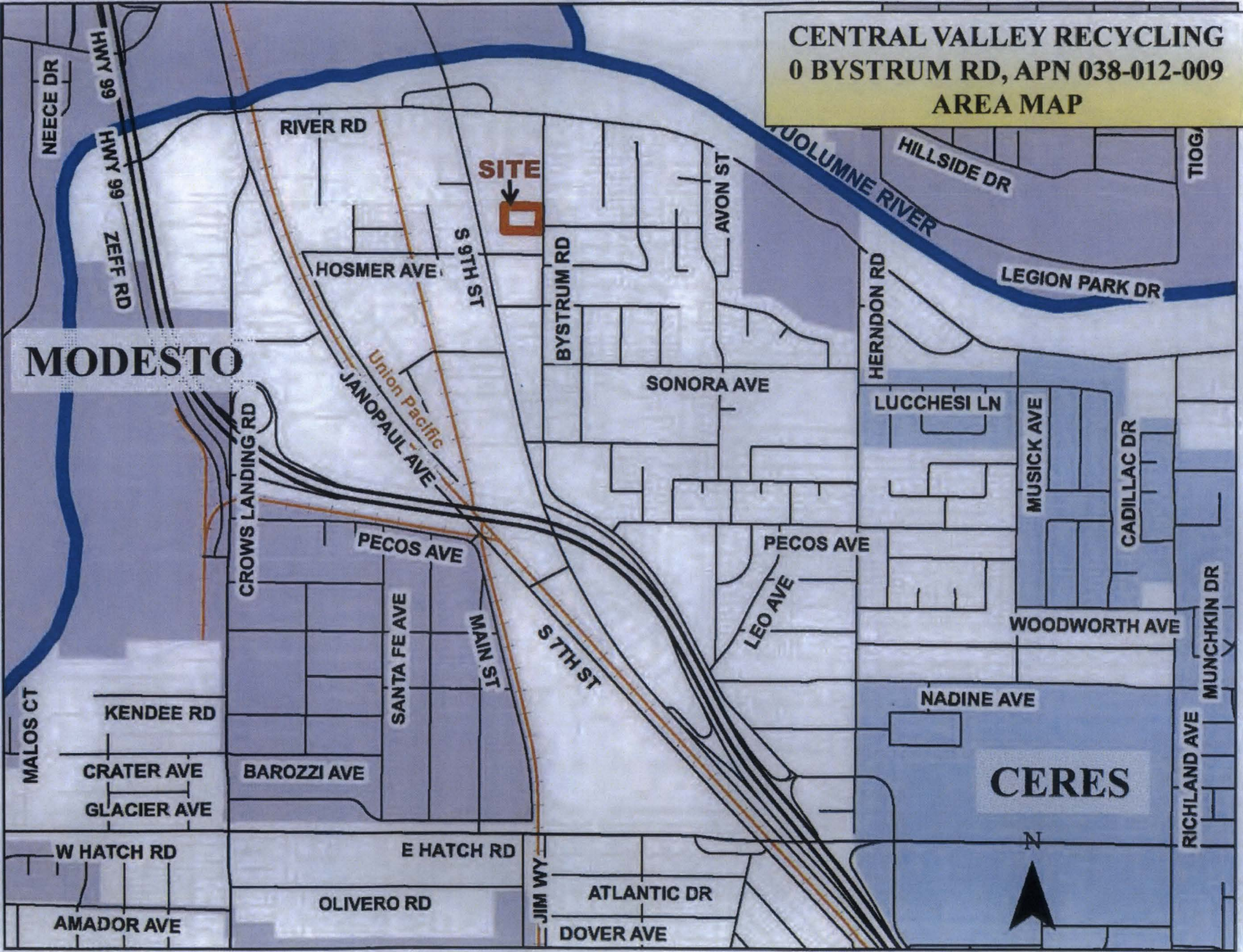
By: _____
Donald Francis Sr.

By: _____
Donald Francis Jr.

Additional Site Maps

Attachment 5

**CENTRAL VALLEY RECYCLING
0 BYSTRUM RD, APN 038-012-009
AREA MAP**

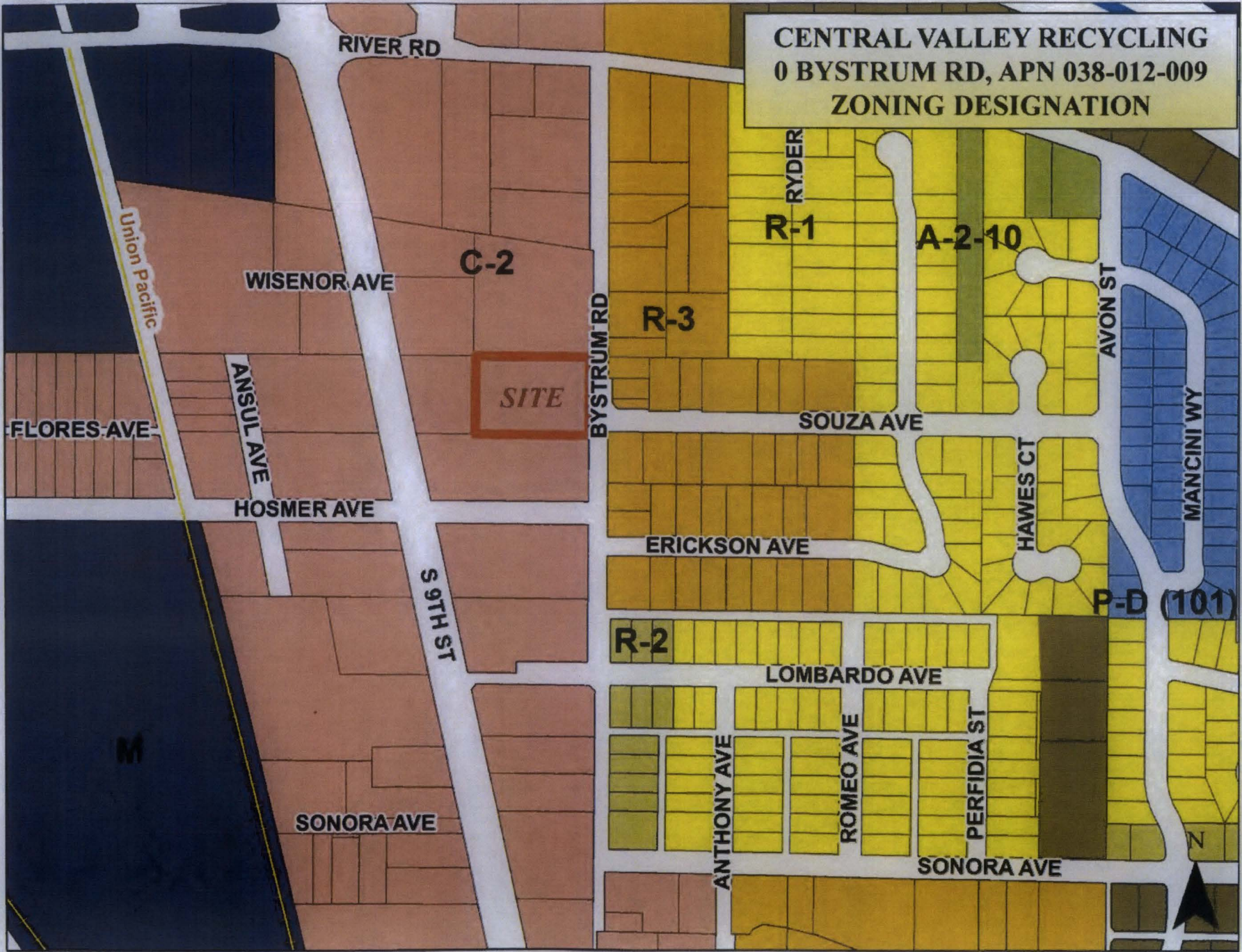


MODESTO

CERES



**CENTRAL VALLEY RECYCLING
0 BYSTRUM RD, APN 038-012-009
ZONING DESIGNATION**



**CENTRAL VALLEY RECYCLING
0 BYSTRUM RD, APN 038-012-009
2010 STANISLAUS COUNTY
AERIAL**



SITE

SOUTH ST

HOSMER AVE

BYSTRUM RD

ERICKSON AVE

SOUZA AVE

RYDER WY

MONTAGUE CT

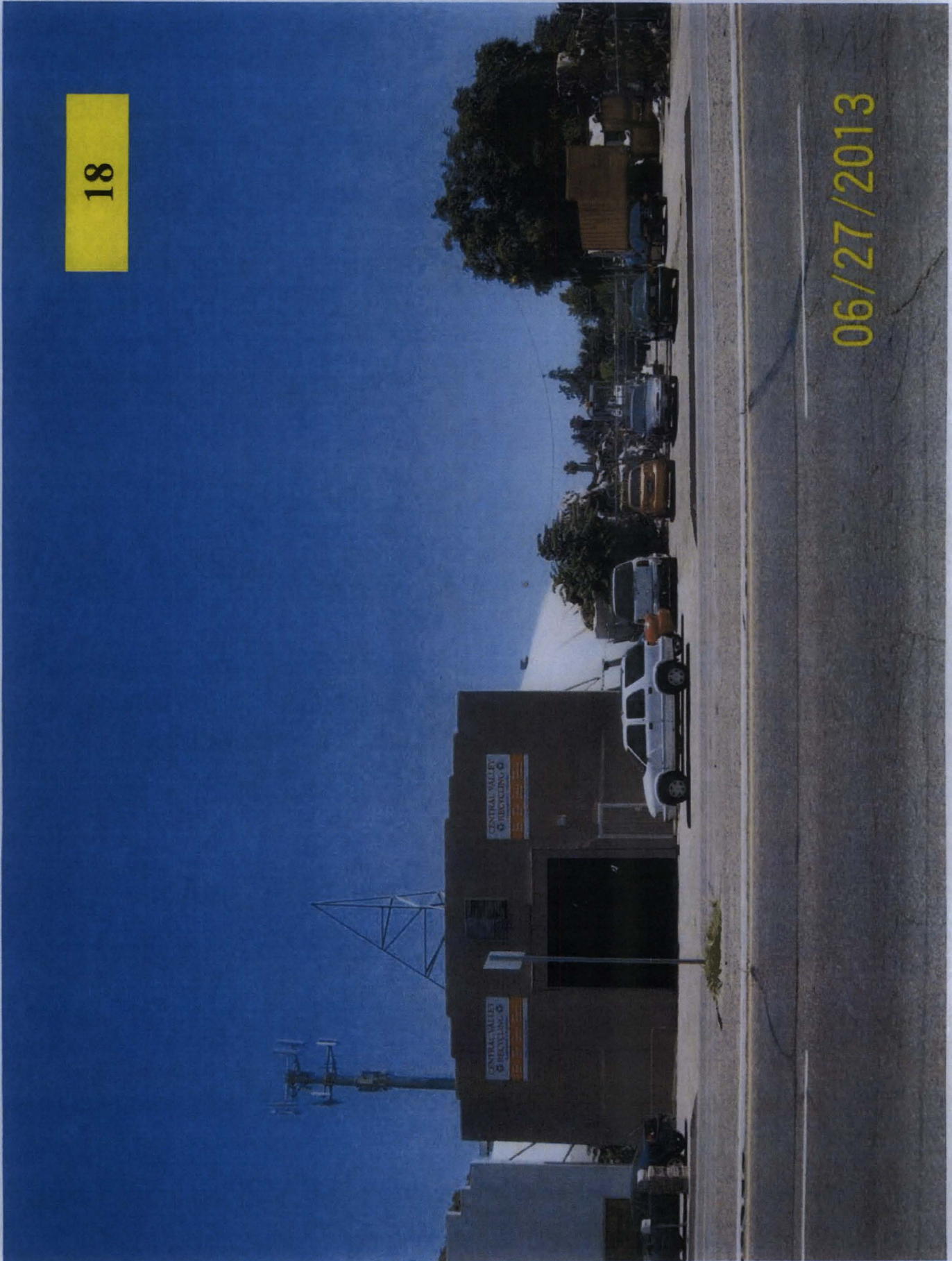
MONTAGUE AVE



Additional Photos

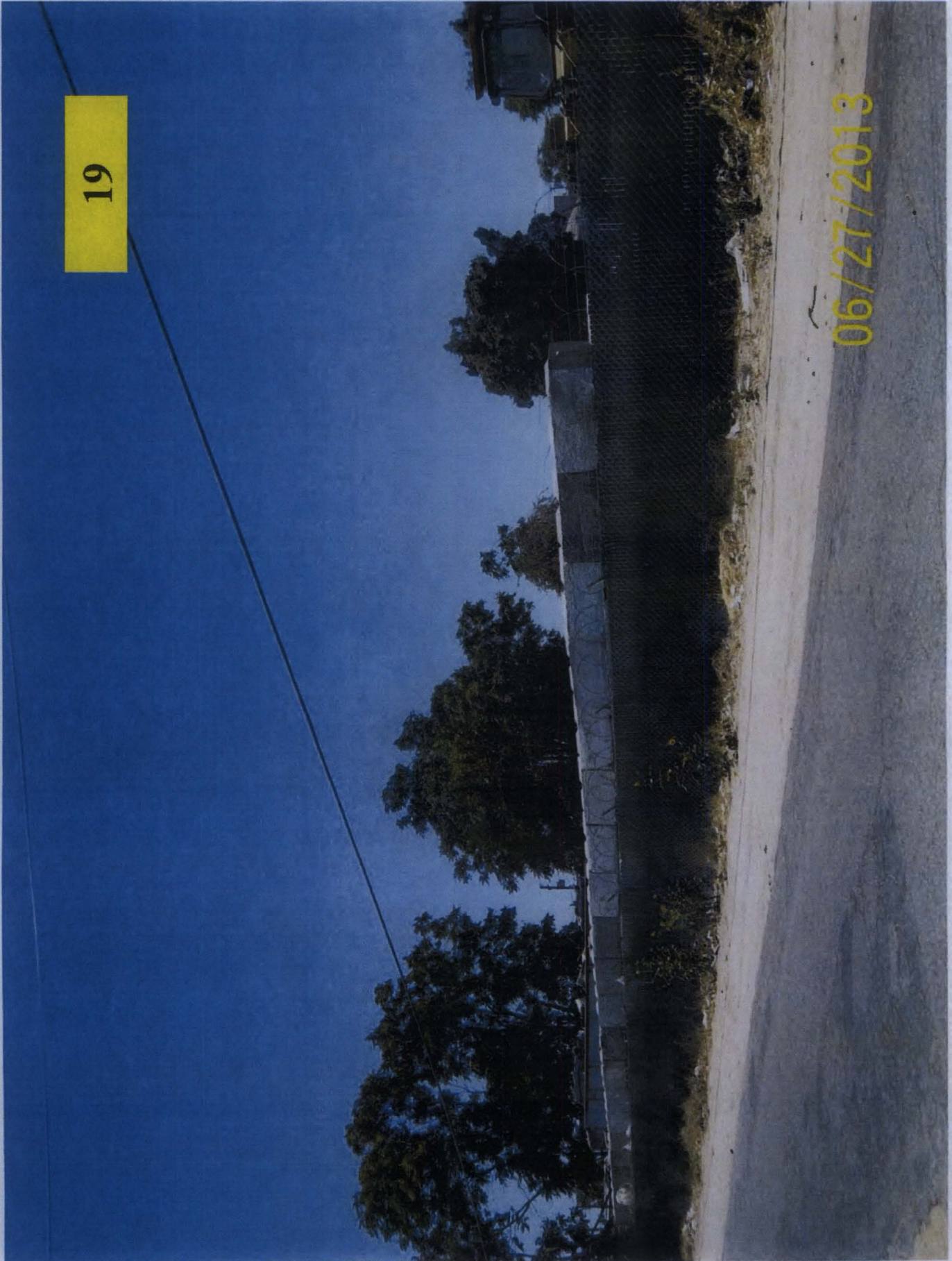
Attachment 6

18



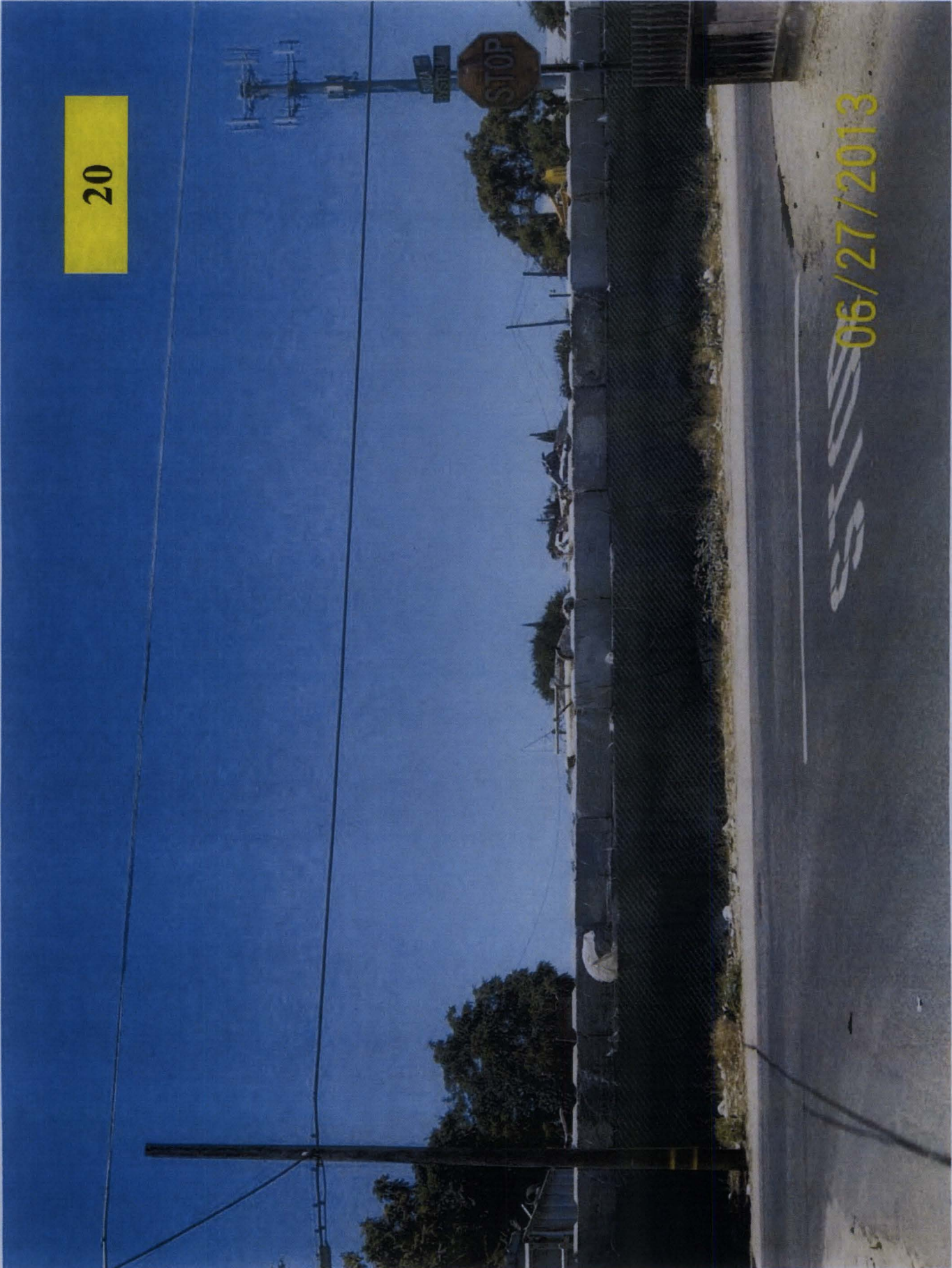
06/27/2013

19



06/27/2013

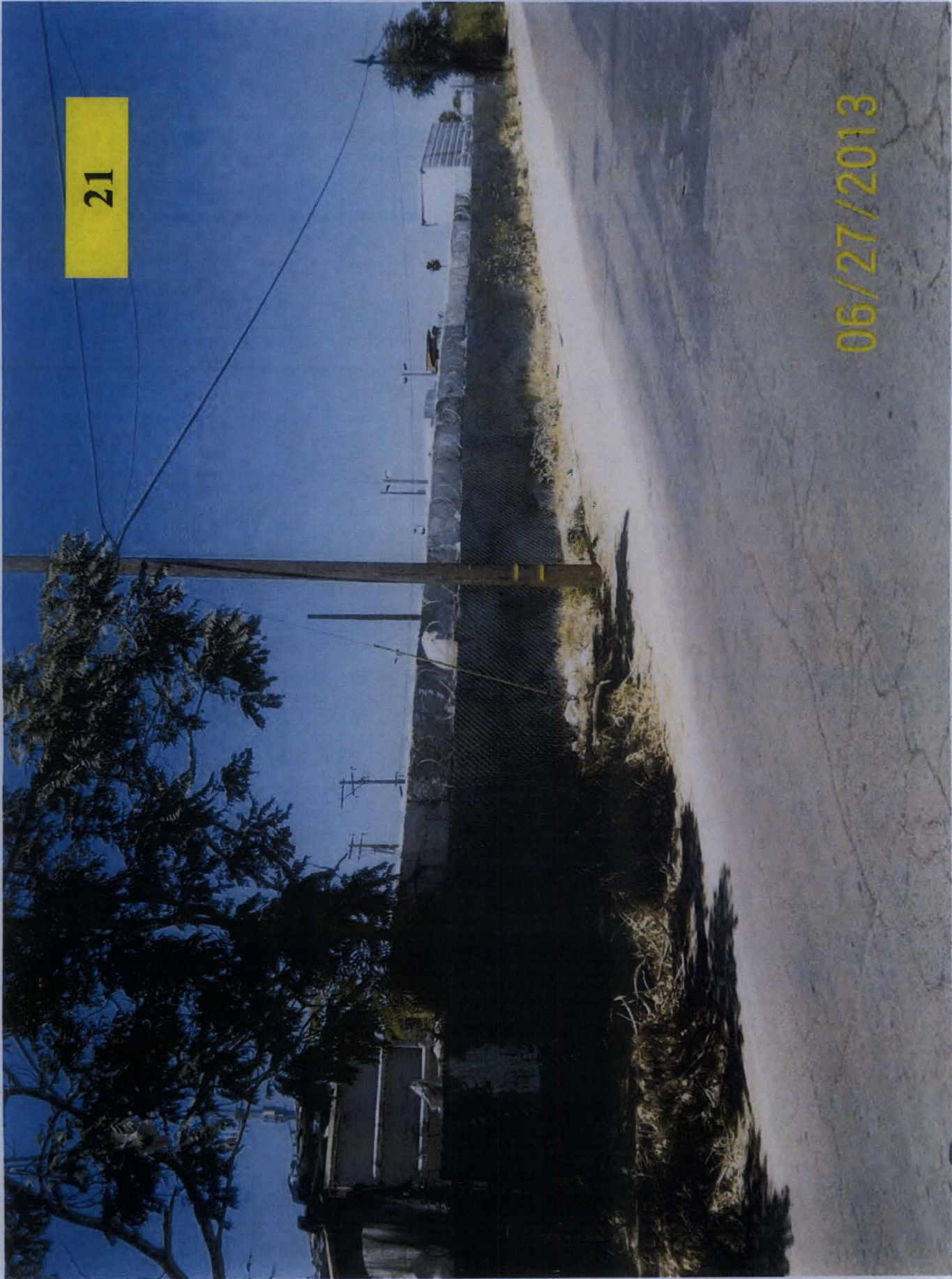
20



06/27/2013

21

06/27/2013



B-7

>>> On 8/19/13 at 12:48 PM, in message <5212768F.360 : 117 : 47863>, Jim DeMartini wrote:

FYI.. this email was sent to my 3 BOS members
Thanks,
Kacey

>>> "Mark Niskanen" <mark@jbandersonplanning.com> 8/19/2013 12:44 PM >>>
Honorable Chairman Chiesa and Board of Supervisors:

Good afternoon. John B. Anderson asked me to forward you excerpts from the August 19, 2013 Noise Study, prepared by Bollard Acoustical Consultants, Inc., for the recycling operation located at 524 S. 9th Street, Modesto (Central Valley Recycling). Please note that we have highlighted text in yellow and would appreciate your time in reviewing this text.

Thank you in advance.

Sincerely,

Mark

Mark Niskanen
Senior Planner
J.B. Anderson Land Use Planning
139 S. Stockton Avenue
Ripon, CA 95366
209.599.8377 Office
209.402.0196 Mobile

BOARD OF SUPERVISORS
2013 AUG 19 P 1:04

The last row of the Table 1 data shows how much the measured average levels during all CVR operating hours exceeded the County's adjusted noise standards. As you can see, the levels exceeded the County's noise standards, but those levels were measured closer to the CVR operations than the existing residences, so the actual exceedance at the nearest neighbors would be expected to be lower than what is shown in that last row.

Table 1
Continuous Noise Monitoring Results
Central Valley Recycle Facility Northeast Corner
August 2-4, 2013

	Lmax 1 min/hr	L2 5 min/hr	L8 15 min/hr	L25 30 min/hr	L50 30-60 min/hr
County Noise Ordinance Standard (unadjusted)	70	65	60	55	50
Ambient noise levels on Sunday, August 4, 2013 (CVR not operating)	90	65	59	53	50
Standard Adjusted for Elevated Sunday Ambient	90	65	60	55	50
Measured Average During CVR facility Operations	81	66	62	57	54
Level of Exceedance of County Standard	None	1	2	2	4

This data indicates that, while the CVR facility noise levels exceeded the County's standards, the level of exceedance has decreased significantly as a result of the noise mitigation measures implemented by CVR, and further indicates that compliance with the County noise standards is likely within reach with additional mitigation.

Comparison of Pre-Mitigation to Post-Mitigation Noise Measurement Results

Table 2 shows a comparison of the January and August noise measurement results.

Table 2
Comparison of Pre and Post-Mitigation Noise Levels
Central Valley Recycle Facility

	Lmax 1 min/hr	L2 5 min/hr	L8 15 min/hr	L25 30 min/hr	L50 30-60 min/hr
January 17-22, 2013 – Before Mitigation	86	70	66	62	59
August 4, 2013 – After Mitigation	81	66	62	57	54
Decrease in Noise Levels due to Mitigation	5 dB	4 dB	4 dB	5 dB	5 dB

Mr. John B. Anderson
J.B. Anderson Land Use Planning
August 19, 2013
Page 4

The Table 2 data indicate that the noise mitigation measures implemented by CVR resulted in a 4-5 decrease in facility noise generation. While the test results clearly indicate that the mitigation measures implemented by CVR have resulted in a clearly noticeable decrease in noise levels, it would likely be feasible to further reduce facility noise generation through the placement of 1-2 additional blocks on top of the new wall constructed by CVR along the rear property line. Each additional foot of wall height would normally be expected to result in an additional noise reduction of 1 dB. Therefore, placement of one additional layer of blocks (approximately 2 feet tall each), could result in an additional noise reduction of 2 dB, with two layers of blocks potentially providing an additional 4 dB noise reduction. Because the County's most stringent noise standard (L50) is only being exceeded by 4 dB currently, the additional two blocks could fully mitigate CVR noise to a state of compliance with County noise standards.

Conclusions & Recommendations

This analysis concludes that the noise mitigation measures implemented by CVR in recent months have resulted in a clearly noticeable decrease in facility noise emissions at the nearest residences to the east (4-5 dB reduction). Although the resulting noise levels still exceeded the County's noise standards, the magnitudes of the exceedances (1-4 dB over the County standards), were greatly reduced relative to the pre-mitigation conditions. To further reduce facility noise emissions at the nearby residences to the east, the following additional mitigation measures are recommended:

1. The new block walls which have been erected near the eastern property line and around the tin pile should be increased an additional 4 feet in height each. This measure would provide further shielding of CVR noise at the existing residences to the east.
2. Continue to limit excavator usage to areas in front of the tin pile.
3. Continue to load trucks in the front of the tin pile (further west of the nearest residences to the east).
4. Continue to unload cars in front of the tin pile.

These measures are expected to both lower overall facility noise emissions at the nearest residences to the east and reduce the potential for adverse public reaction from those residences to noise generated by CVR.

This concludes BAC's summary of the additional noise measurement survey conducted at the CVR facility in August of 2013. Please contact me at (916) 663-0500 or paulb@bacnoise.com if you have any comments or questions regarding this letter.

Sincerely,

Bollard Acoustical Consultants, Inc.



Paul Bollard, President, INCE Board Certified

B7

Christine Ferraro - Fwd: IMG_0475.jpeg

From: Jim DeMartini
To: Ferraro, Christine
Date: 8/20/13 11:41 AM
Subject: Fwd: IMG_0475.jpeg
Attachments: IMG_0475.jpeg; Part.002

FYI.
Jim received this email.

>>> Rebecca Harrington <raharrington_99@yahoo.com> 8/20/2013 10:58 AM >>>
This came on this morning to Central Valley recyclers

BOARD OF SUPERVISORS
2013 AUG 20 P 1:37



Christine Ferraro - Fwd:

From: Jim DeMartini
To: Ferraro, Christine
Date: 8/21/13 9:14 AM
Subject: Fwd:
Attachments: Neighborhood Report.pdf

FYI...

>>> Richard Francis <richardcvr@att.net> 8/20/2013 3:49 PM >>>
Honorable Chairman Chiesa and Board of Supervisors:

Good afternoon. I wanted to forward the attached report we had done in reference to the neighborhood and their concerns regarding the business located at 524 S. 9th Street, Modesto (Central Valley Recycling). This report was conducted by Valley Investigative Professionals. The report shows many homes and businesses surrounding the east side of our site and their concerns to our business.

Please let me know if you have any questions.

Thanks in advance,

Sincerely,

Richard Francis
Central Valley Recycling
Cell: (209) 604-7113
Fax: (209) 544-1581

VALLEY INVESTIGATIVE PROFESSIONALS

Louis P Gallández – Greg Valdez – Scott Hardman – Walt Clark
1231 8th Street Suite 850 Modesto CA 95354

CA P.I. LIC. # 24638

PHONE (209) 577-0491 FAX (209) 577-4491

California Association of Licensed Investigators – National Association of Investigative Specialists
Retired Peace Officers association of California – Defense Investigators Association of California
Homicide Association of California – Peace Officers Research association of California
National Council of Investigation & Security Services

August 19, 2013

Final Report

Central Valley Recycling
524 South 9th Street
Modesto, CA

Interviews with neighbors to the east of complex:

548 Bystrum 7-22-13

Carlos

A little noise but not bad. Some trash along the outside of the east fence, (along Bystrum), but that is not their trash, Many of the neighbors use them to turn in recyclables. Stated they could help to clean up along the fence that would be a nice thing.

544 Bystrum 7-22-13

John Miranda

It's a good place. No problems and they employ quite a few people. No problems.

540 Bystrum 7-22-13

I. J. Johnson

No problems and no issues at all. They have been there a long time.

528 Bystrum 7-22-13

No answer at address at 12:15 PM (7-22-13)

No answer at address at 12:30 PM (7-24-13)

512 Bystrum 7-22-13

Sophia

No problems with noise or dust or anything. Her kids like to watch the equipment. Could help with the clean up along the outside east fence. That would be nice maybe like "Adopt the block"

508 Bystrum 7-22-13
Jr. Rodriguez

Spoke with Jr. Rodriguez. He stated he had no problems with the Central Valley Recycling. Stated he never heard the noise and has had no problems. He stated he liked the fact that they had cleaned up the fence line across from his property.

Interviews with neighbors to the east of complex continued:

444 Bystrum 7-22-13
Holly

No complaints. No dust from them. She stated the dust and noise comes from the truck yard to the north of Central Valley Recycling. No problems. Holly stated that a neighbor was going around trying to get the neighborhood riled up about the company but she personally had no problem with them.

718 Souza 7-22-13
Maria (Spanish speaking only)
Ruben, Home owner later called me

Ruben called me after I had left the area and complained about the noise, dust and smell of the recycling facility. He stated he and his neighbor were very fed up with the facility. He told me it stunk, however while I conducted the interviews I detected no smell or odors in the area. He said his house shook however while I walked the area I could not detect any vibration or ground shaking. This individual is new in the area.

711 Souza

7-24-13:

Spoke with Gilbert Ortaz. He stated nothing bothers him from the Central Valley Recycling. He stated he did not know who cleaned up along the fence but when I told him it was Central Valley Recycling he said that was nice.

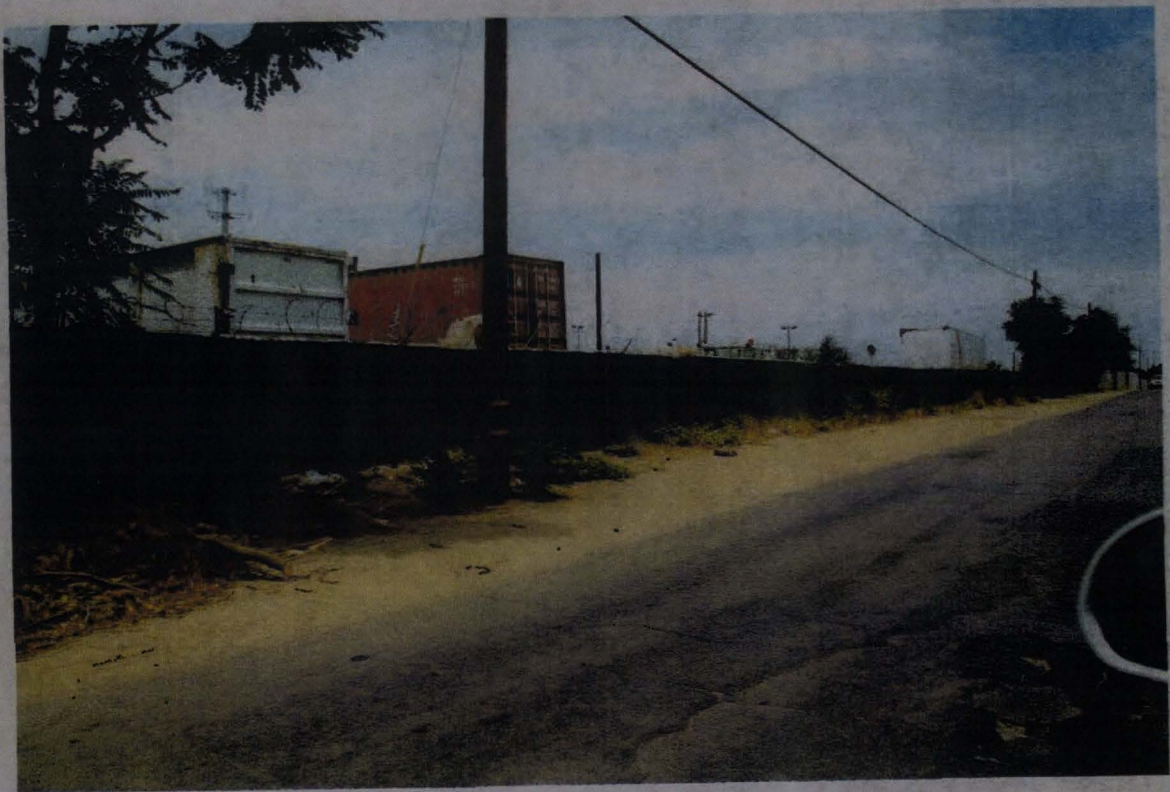
Gilbert stated that the people at 718 Souza were new and they were trying to talk to neighbors about the noise but Central valley Recycling does not bother him or his family.

722 1/2 Souza
Debbie

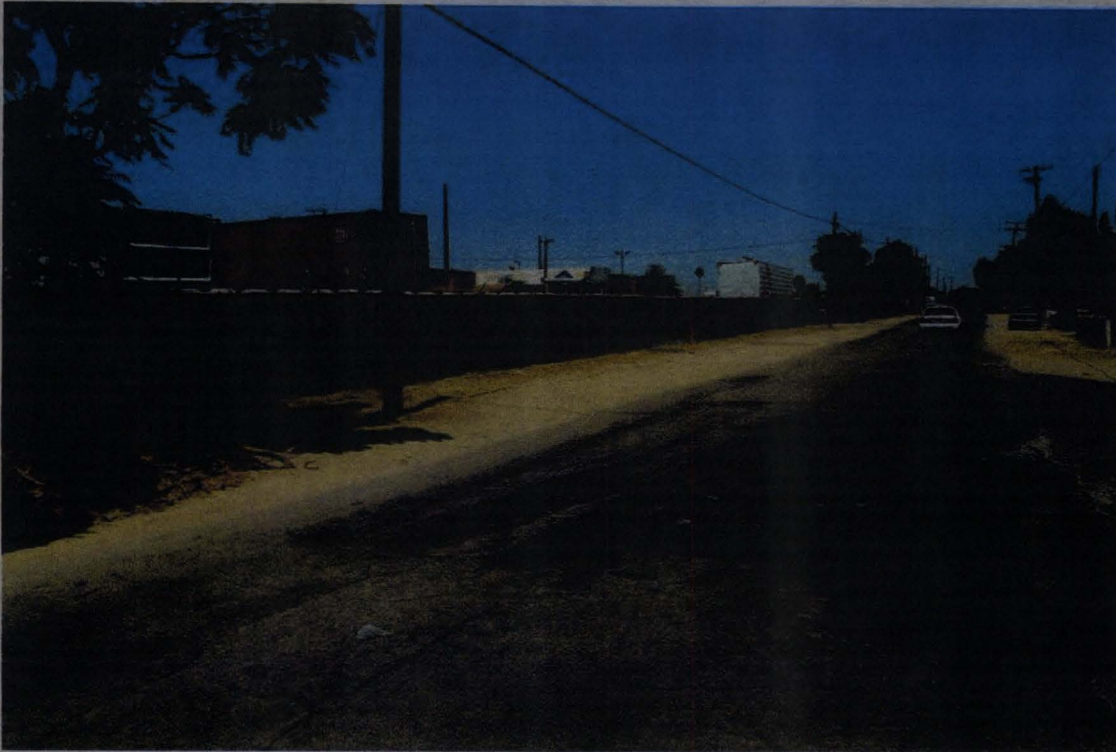
No problems with noise or duct or anything. Stated CVR were good neighbors.

**717 Souza
Danny**

Stated he had no problems with them. Said they employed several people and thought that was good. Also stated that what they were doing for the environment in recycling was a good thing. He said he took his recyclables to them. Not loud, dusty or anything.



East Fence of Central Valley Recycling 7-22-13



Note: on 7-24-13 I observed the east fence of Central valley Recycling and it had been cleaned up. The neighbor looks much nicer now.

August 14, 201

Interviews with neighbor businesses to CVR

Mission Hills Truck School

Left home office at 11:45 AM and drove to **Mission Hills Truck School** located at 521 Bystrum Road in Modesto. The owner, Avtar Chattaha is currently in India however I spoke with the Operations Manager and head Instructor, Joe Pagaza.

Joe informed me that Central Valley Recycling is a good neighbor and very likable. In fact, he said one of his trucks backed into CVR's fence and knocked it down. The owner of CVR came over and was very understanding and likable. Mission Hills Truck School fixed the fence and they have a great relationship. They get along with CVR and have no problems with the people or the company. The noise is not objectionable any more so than any other business in the neighbor. Joe stated, "We have no problem with them."

I finished the interview by stating that someone in the community was having an issue with Central Valley Recycling, Joe Pagaza said: "Well, it's not Mission Hills."



Mission Hills Truck School from Bystrum and Hosmer Streets.

Mission Hills Truck School

**Interviewed the Co-owner
August 15, 2013**

Interview with: Parminder Kaver office manager and part owner of business she said that her husband is in India however she would be willing to answer any questions that regarding the neighbors at central Valley recycling company, I asked if she was at the business every day and she said yes for the most part from 10 am to 1 pm Monday through Friday. I also asked if any of her neighbors have complained to them about the recycling company and she said no. I also asked her if she and her husband had any complaints about the recycling and she said no.

Rocha Transportation

Drove to **Rocha Transportation** located at 460 Bystrum Road in Modesto. This is a maintenance yard for Rocha Transportation's vehicles. I spoke with the Shop Foreman / Facility Manager, Allan Freitas. Allan informed me that Rocha Transportation had some problems in the past with someone in the neighborhood complaining about dust on their lot. He said Rocha Transportation oiled the lot and their problems went away. He informed me that he has noticed that CVR has reduced their noise greatly and now does not start work until 8:00 AM. Allan arrives at his facility at 5:30 AM and it is quiet over there until 8:00 AM. He said, "This is a real good neighbor move",. He also stated CVR has cleaned up their fence line on Bystrom. Allan said he has no problems with Central

Valley Recycling, the facility or the people. Allan stated he has never complained to anyone in the community regarding CVR.

When I mentioned that someone in the community was having an issue with Central Valley Recycling, Allan Freitas instantly said: "It's not us."



Rocha Transportation maintenance lot from Bystrum Street

August 15, 2013

Left home office at 5:15 PM and drove to Central Valley Recycling at 524 South 9th Street in Modesto. Arrived at 5:35 PM and found the facility closed to business. Photographed the facility and returned to home office.



August 15, 2013 5:38 PM

August 16, 2013

Left home office at 5:00 PM and drove to Central Valley Recycling at 524 South 9th Street in Modesto. Arrived at 5:35 PM and found the facility closed to business. Photographed the facility and returned to home office.



August 16, 2013 5:17 PM

August 17, 2013

Left home office at 5:15 PM and drove to Central Valley Recycling at 524 9th Street in Modesto. Photographed facility which was closed and not operating at 5:37 PM. Returned to home office.



August 17, 2013 5:37 PM

August 19, 2013

Left home office at 5:25 PM and drove to 524 South 9th Street. I photographed the Central Valley Recycling at 5:45 PM and it was closed to business. There was no activity in the yard. Returned to home office.



August 19, 2013 5:45 PM

FINAL CONCLUSION

After interviewing 10 neighbors to the east of Central Valley Recycling as well as two businesses adjacent to CVR, it appears the majority do not have any issues with the company. However from two neighbors I heard that one female individual in the community, had been calling on them trying to get them “worked up” against Central Valley Recycling. During my time in the neighbor hood, I did not witness any dust or odors emanating from the facility. Nor did I feel any vibration of the ground in any of the areas I walked. I did witness slight noises however nothing that could be considered excessively loud or irritating. Every one of the interviews I conducted, was done out doors of the residences. In fact, street noises, on Bystrum when vehicles passed by were louder than the noise coming from Central Valley Recycling.

I conducted the “Residence” interviews on two separate days, throughout the neighborhood, while Central Valley Recycling was in full operation, and I spent over four hours on the streets.

Central Valley Recycling has initiated a "Good neighbor" policy of cleaning up the outside of their east fence on Bystrum. It was weeded and the trash removed on 7-23-13 and remains clean and maintained as of the completion of this investigation on 8-19-13.

The two businesses I interviewed, Mission Hills Truck School and Rocha Transportation emphatically stated they have no problems or complaints with Central Valley Recycling. Further the management of these two businesses, each stated that they have not at any time made statements to any person inferring that they have problems with their neighbor; Central Valley Recycling.

**Walt Clark
Valley Investigativels Professiona**

Christine Ferraro - Fwd: Central Valley Recycling - 524 S. 9th Street

From: Jim DeMartini
To: Ferraro, Christine
Date: 9/6/13 10:34 AM
Subject: Fwd: Central Valley Recycling - 524 S. 9th Street

FYI...

>>> "Mark Niskanen" <mark@jbandersonplanning.com> 9/6/2013 9:33 AM >>>
Honorable Chair Chiesa and Members of the Board:

Good morning. On behalf of Central Valley Recycling, it has come to our attention that you have been receiving phone calls from neighbors of Central Valley Recycling, located on 524 S. 9th Street, in regards to their business operation and the comments made, and authorized by the Board of Supervisors, at the August 20th Board of Supervisors Meeting. We understand that neighbors are under the impression that Central Valley Recycling is only to operate their business (scrap metal and CRV recycling) between the hours of 11am and 2pm.

In regards to the discussion that took place at that meeting, it was agreed to between Central Valley Recycling and their attorney, Tom Terpstra, and the County Counsel's Office that the crushing of vehicles (for scrap metal) would occur between the hours of 11am and 2pm. Business hours outside of this timeframe would then include processing CRV, loading trucks, receiving materials, etc. etc. and be permitted to occur.

Central Valley Recycling has and continues to comply with the Board's direction on this matter, and is eagerly looking forward to moving forward with the processing of Conditional Use Permit so standards and mitigation measures can be solidified and implemented by them and the County. We agree that it is for the benefit of all that development standards are put in place so that Central Valley Recycling's business can continue to thrive and at the same time, be a good neighbor to the residents along Bystrum Road and beyond. We agree with County staff in that a Conditional Use Permit is the proper instrument for this.

On behalf of Central Valley Recycling, thank you in advance for your consideration.

Sincerely,

Mark

Mark Niskanen
Senior Planner
J.B. Anderson Land Use Planning
139 S. Stockton Avenue
Ripon, CA 95366
209.599.8377 Office
209.402.0196 Mobile

2013 SEP -6 A 10:41
BOARD OF SUPERVISORS

CE# 12-0224

0 Bystrum Rd

Modesto, CA 95351

“Central Valley Recycling”



NUISANCE ABATEMENT HEARING BOARD

STAFF REPORT

0 Bystrum Road

Modesto, CA 95351

APN: 038-012-009

DATE OF HEARING: June 27, 2013

TITLE: Nuisance Abatement Hearing: CE #12-0224

SUPERVISORIAL DISTRICT: 5

ZONING DESIGNATION: C-2 (General Commercial District)

RECOMMENDATION: It is County staff's recommendation that after considering the information contained in the attached Inspection Report and any testimony presented, that the Nuisance Abatement Hearing Board finds that a nuisance exists at 0 Bystrum Road, Modesto pursuant to Section 2.92 of the Stanislaus County Code. If the Nuisance Abatement Hearing Board finds this property to be a nuisance, within thirty days of that finding, the Stanislaus County Board of Supervisors will be asked to adopt, modify or reject that finding. If adopted the Board of Supervisors would:

- Order the interested parties to abate the nuisance and return the property to its permitted use as defined in the Stanislaus County Code.
- Authorize the abatement of the nuisance and charge the cost to the owner(s).
- Authorize the disposal of material removed from the property and charge the cost of removal to the owner.
- Order a lien to be recorded against the property if the owner fails to pay the County for the cost of the abatement.

**COUNTY OF STANISLAUS
NUISANCE ABATEMENT HEARING BOARD REPORT**

PROPERTY ADDRESS, APN AND DESCRIPTION:

0 Bystrum Road, Modesto, CA – Assessor's Parcel Number: 038-012-009

The parcel is zoned C-2, General Commercial District - §21.56 of the Stanislaus County Code. According to the Stanislaus County Assessor's Office records the parcel is a vacant lot approximately 60,112 square feet (1.38 acres).

PROPERTY OWNER INFORMATION:

Stanley A. Goblirsch and Joyce O. Goblirsch are the current owners of record according to the Stanislaus County Assessor's Office, the Stanislaus County Clerk-Recorder's Office, and a title report obtained from Stewart Title Company.

GENERAL BACKGROUND INFORMATION:

The business identified as "Central Valley Recycling" (CVR) is operated on two adjoining parcels, by Donald Francis Sr. and Donald Francis Jr. Said parcels are both zoned C-2 and identified as APN 038-012-008 (524/526 S. 9th St, Modesto) and APN: 038-012-009 (0 Bystrum Rd, Modesto) and are owned by Stanley A. Goblirsch and Joyce O. Goblirsch. The parcel identified as APN 038-012-008 is improved with two (2) Quonset hut type buildings used to primarily collect California Redemption Value (CRV) recycling. CRV recycling typically includes household items such as aluminum cans, and plastic and glass bottles. There are no land use/zoning complaints associated with the portion of this business operating on APN 038-012-008. The parcel identified as APN 038-012-009 is improved with a truck scale and scale house (no building permits for either on record), containers, machinery, and piles utilized for the collection of scrap metal items (Exhibit 2). The scrap metal portion of the business, and the operating practices employed by the operator have resulted in noise and air quality complaints.

In 2009, the Stanislaus County Director of Planning and Community Development, based on the evidence at hand at the time, determined that CVR's scrap metal recycling operation was similar in character and purpose to uses enumerated in County Code Chapter 21.56 General Commercial (C-2) and approved the issuance of a business license to CVR for scrap metal recycling. In 2012, in response to complaints received by County officials from residents of the adjoining neighborhood, it was determined that the scrap metal recycling portion of the business was no longer, or may never have been, operated in a manner consistent with the character of permitted C-2 uses and a business license

renewal was denied. Consequently, the scrap metal recycling operation that occurs at APN: 038-012-009 (0 Bystrum Rd, Modesto) must cease.

For reference purposes, the subject property is identified as APN: 038-012-009 (0 Bystrum Rd, Modesto), and contains the alleged violations:

- (1) §21.56.020 and §21.16.040 of the Stanislaus County Code. Non-Permitted Land Use (scrap metal recycling operation).
- (2) §21.56.040(D) of the Stanislaus County Code. No operation (scrap metal recycling operation) shall be conducted on any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke, vibration or electrical interference detectable off the site.

HISTORY

CVR's location is adjacent to a residential area. (Maps)

In February of 2009, Stanislaus County (County) received a complaint about Central Valley Recycling (CVR) alleging they were operating a non-permitted scrap metal recycling business with a fencing violation in the C-2 zone. Staff opened code enforcement case CE# 09-0158.

In May of 2009, CVR applied for a business license to operate a "recycling and scrap" business to conduct "buying cans plastic, glass & scrap metal". (Exhibit 5)

On July 19, 2009, staff informed CVR of the County Zoning Ordinance requirements regarding fencing for the outside storage of scrap metal. (Exhibit 3)

On July 21, 2009, based on staff's understanding at the time of CVR's materials processing activities, and the type of materials to be accepted and the anticipated height of the scrap piles, staff provided CVR with a letter notifying CVR that staff reviewed the application for a business license and approved it upon compliance with section 21.08.020(b)(1) of the County Code regarding fencing and pile height of materials stored outside an enclosed building. (Exhibit 4) Staff closed CE# 09-0158 case after the fencing requirements were met and a business license was approved.

In 2010 and 2011, CVR submitted applications for Scrap Metal Dealer/business licenses renewal, which were both approved. (Exhibits 6 and 7)

On June 19, 2012, the County mailed a Scrap Metal Dealer/business license renewal notice to the operator (Exhibit 9) and CRV subsequently submitted a renewal application. (Exhibit 10)

In 2012, County officials received complaints from residents of the adjoining neighborhood relating to noise and air pollution from the on-site movement of scrap metal. In response to the complaints, renewal of the business license application was placed on hold to allow the Planning Department an opportunity to review the complaints and the current operations. (Exhibit 12, p. 1 – 3, 7) One of the issues identified during staff's review of CVR's operation is the fact that CVR accepts and processes vehicles, which was not considered part of the materials to be processed in 2009. (Pictures 7 and 8)

On September 5, 2012, the Planning Director of the Department of Planning and Community Development (DPCD) informed CVR that the County would not approve the business license because of complaints from the surrounding neighborhood. Due to the nuisance conditions arising out of CVR's operations that were affecting the neighboring residential areas, the Director determined that the "operation of the scrap metal recycling business is not in character with permitted C-2 uses." The Director informed CVR that if they wished to contest this determination they may submit a written appeal request under County Code 21.112.020(B), but that the appeal must be submitted within 10 days of the notice (Exhibit 11). No appeal was submitted.

On October 31, 2012, code enforcement staff visited the property and spoke with Donald Francis, Sr. and Donald Francis, Jr. (co-owners of CVR) at CVR regarding the non-permitted scrap metal recycling operation. Staff photographed both parcels from the public right of way and said photographs are hereby attached as photographs 1 & 2, depicting accurate representations of the observations described herein.

On November 7, 2012, code enforcement staff visited CVR and met with Donald, Sr.; Donald, Jr., Glenda Teague (bookkeeper), and Richard Francis (son of Donald, Sr.). Code enforcement staff obtained verbal consent from Donald, Sr. and Donald, Jr. to enter both parcels (APN 038-012-008 and APN: 038-012-009) and permission to take photographs. Richard and Donald, Jr. escorted staff throughout the entire inspection. The subject property contained a truck scale area, industrial type equipment such as a forklift, a water truck, and excavators. Staff also observed large metal bins placed throughout the property and semi-trucks & trailers. Situated to the center of the subject property, staff observed a large pile of scrap metal that included broken pieces of cement, metal wires, two wrecked vehicles, several vehicle parts (e.g.: alloy rims, etc), motors, steel pipes, and other iron metal material. The distance between the pile of scrap metal and the fence along Bystrum Road was approximately 100 feet. Richard said that they do not sell the vehicles and only accept vehicle frames for the purpose of transporting them to a processor and that CVR is not considered an automobile dismantler. Richard also stated the scrap metal operation has not changed since

2009. While at the site, staff observed customers at the scale and it appeared customers were also off-loading scrap metal at the subject property. Staff photographed both parcels from a legal position and said photographs are hereby attached as photographs 3, 4, 5, 6, 7, 8, 9, 10, & 11, depicting accurate representations of observations described herein.

Planning staff reports that while CVR may not be considered an auto dismantler according to State law, the acceptance of vehicle frames was not a consideration in issuance of the original 2009 business license or subsequent renewals and, due to its similarity in character to auto wrecking, is not considered a permitted C-2 use.

On November 13, 2012, code enforcement staff received a call from Don, Sr. requesting a meeting to review documents showing CVR was in the scrap metal business prior to 2009. Later on the same date staff met with Stanley Goblirsch (property owner), Donald Sr. & Richard at CVR. Richard provided copies of Solid Waste Permits that indicate that CVR received scrap metal prior to obtaining a business license in 2009.

Planning staff reports the scrap metal that CRV may have received prior to 2009 likely occurred in conjunction with the CRV operation on APN 038-012-008, which was not limited to CRV type recycling; however, APN 038-012-009 was not recognized as part of the recycling operation at that time and, prior to the staff approval of the business license for scrap metal recycling in 2009, had been used for truck parking.

On November 13, 2012, code enforcement staff spoke with Scott Van Dyke (San Joaquin Valley Air Pollution Control) and was informed CVR had an informal dust control plan. Scott said he conducted routine inspections to verify CVR used their water trucks to limit the amount of dust created at the subject property. Staff sent an inquiry to the Sheriff's Department requesting a report of disturbance calls from the subject property between the hours of 7:00pm – 7:00am, from the dates of January, 2009 through November, 2012. According to the Sheriff's Department records, there were no complaints filed or reports of disturbances at the subject property during the requested time periods.

On December 7, 2012, public works staff received a Request for Investigation of a Complaint regarding sediment control and dirt/debris tracking. (Exhibit 12, p.6)

In late 2012 or early 2013, CVR requested Bollard Acoustical Consultants, Inc., to prepare a noise study to address noise concerns. (Exhibit 13) CVR solicited input from County staff on the scope of work and provided a copy of the January 30, 2013 noise study to staff. The noise study showed that the CVR facility exceeded Stanislaus County's daytime noise level standards contained in County

Code section 10.46.120(B) by 2 to 4 dB on the days the facility was in operation and by as much as 6dB Lmax and 9 dB L50 at the east property line 50 feet from the existing residences (Exhibit 13 at pp. 3, 10, and 11).

On February 6, 2013, staff received a complaint regarding noise, dust and odor from CRV's operations. (Exhibit 12, pp. 4-5)

On February 21, 2013, the planning department acknowledged receipt of the noise study and of noise study's finding that County noise standards were being exceeded. Staff notified CVR that the scrap metal facility is not permitted to continue operating. (Exhibit 14).

On February 21, 2013, the Department of Environmental Resources notified CVR that contaminated storm water had been identified on the property and that the storm water is hazardous waste and ordered the correction of the violation. (Exhibit 15).

On February 27, 2013, the operator's attorney, Thomas H. Terpstra, submitted two (2) letters. The first letter argued that CRV had a vested right as a scrap metal recycler and the second letter contained a Public Records Request (Exhibits 16 and 17). On March 7, 2013 staff acknowledged receipt of the Public Records Request. (Exhibit 18)

On April 2, 2013, code enforcement staff conducted a follow-up inspection from the public right of way, further identified as South 9th Street and the intersection of Souza Avenue and Bystrum Road. While standing on the corner of Souza Avenue & Bystrum Road, staff noted the scrap metal recycling operation continued at the subject property and issued a Notice and Order to Abate. (Exhibit 1). Staff photographed both parcels from the public right of way and said photographs are hereby attached as photographs 12, 13, 14, & 15, depicting accurate representations of observations described herein.

On April 4, 2013, building department staff received a complaint that a concrete wall was being constructed along the eastern property line of APN: 038-012-009. Staff investigated and confirmed the construction of a 10-foot high wall without first obtaining building permits. A Notice to Builder and Record of Stop Work Order were posted on site identifying the non-permitted construction of an 84-foot long by 10-foot high concrete wall constructed with 2-foot by 6-foot concrete blocks along the eastern property line. The following day, April 5, 2013, a certified letter was mailed to the operators and property owners identifying the need for a building permit. The operator informed the County's building permit staff that they would reduce the wall height to six feet to eliminate the need for a building permit and then contact staff for a compliance inspection. The Stop work order is currently still active. (Exhibit 12, pp. 7, 8)

On May 22, 2013, code enforcement staff conducted a compliance inspection and noted the property remained in violation as described on April 2, 2013. Both parcels were photographed from the public right of way and said photographs are hereby attached as photographs 16 & 17, depicting accurate representations of observations described herein.

On May 30, 2013, a Notice of Hearing to Abate Nuisance regarding the April 2, 2013 Notice to Abate was delivered to all interested parties. Nuisance Abatement Hearing Board scheduled for June 27, 2013. (Exhibit 22)

On June 4, 2013, the public works director issued a Notice and Order to Abate/Notice of Violation of County Code Sections 2.92.010 (Public Nuisances) and 14.14 (Stormwater Management and Discharge Control) issued (Exhibit 12, p. 9-11). The June 4, 2013 Notice and Order is still outstanding and not at issue before this board at this time.

EXHIBITS:

- **Exhibit 1:** On April 2, 2013 staff generated a Notice and Order to Abate (N&O) and issued it pursuant to Section 2.92.030 of the Stanislaus County Code (SCC), to the owners of record, Stanley A. Goblirsch and Joyce O. Goblirsch, PO BOX 1010, Ceres, CA 95307. On April 10, 2013, the Department of Environmental Resources (DER) received the United States Postal Service (USPS) certified receipt card dated April 5, 2013 bearing the printed name and signature of "Joyce Goblirsch." Copies were also delivered via USPS regular and certified mail to the following: Central Valley Recycling (CVR), 524 S. 9th St, Modesto, CA 95351 (on 4/10/13 DER received the USPS certified receipt card dated 4/5/13 with the signature of Modesta Diaz); Donald G. Francis, Business Owner of CVR, 2220 Millcreek Dr, Modesto, CA 95351 (on 4/11/13 DER received the USPS certified receipt card dated 4/10/13 with the signature of Don Francis); Thomas H. Terpstra, Attorney at Law, 578 N. Wilma Ave, STE: A, Ripon, CA 95366 (on 4/10/13 DER received the USPS certified receipt card dated 4/4/13 with the signature of Rosie Ruppel); Mark Niskanen, JB Anderson Land Use Planning, 139 S. Stockton Ave, Ripon, CA 95366 (on 4/10/13 DER received the USPS certified receipt card dated 4/4/13 with the signature of Mark Niskanen); Paul Bollard, President of Bollard Acoustical Consultants, Inc., 3551 Bankhead Rd, Loomis, CA 95650 (on 4/10/13 DER received the USPS certified receipt card dated 4/4/13 with the signature of Christina Hamberger). A copy was delivered via department mail to: Angela Freitas, Department of Planning & Community Development (DPCD) Director, 1010 10th St, STE: 3400, Modesto, CA 95354.

- **Exhibit 2:** Map layout obtained from CVR which depicts where the California Redemption Value and scrap metals are stored. It also shows the ingress and egress routes for the customer drop-off.
- **Exhibit 3:** July 19, 2009, the DPCD generated a letter issued to Stanley Goblirsch regarding the necessary improvements to bring the subject property into compliance with the C-2 zoning district.
- **Exhibit 4:** July 21, 2009, the DPCD generated an approval letter issued to Donald G. Francis regarding the 2009 business license application.
- **Exhibit 5:** 2009 Business License & Scrap Metal Dealer License Application (including correspondences).
- **Exhibit 6:** 2010 Business License & Scrap Metal Dealer License Renewal Applications.
- **Exhibit 7:** 2011 Business License & Scrap Metal Dealer License Renewal Applications.
- **Exhibit 8:** January 3, 2012, CVR obtained a Recycling Center Permit (PR-1001-12), from the DER Solid Waste Division.
- **Exhibit 9:** June 19, 2012, the Office of Treasurer/Tax Collector generated a letter issued to CVR reporting that their Scrap Metal Dealer's License was due to expire 7/20/12.
- **Exhibit 10:** 2012 Business License & Scrap Metal Dealer License Renewal Applications (including correspondences).
- **Exhibit 11:** September 5, 2012, the DPCD generated a denial letter issued to Donald Francis/CVR regarding the 2012 renewal applications.
- **Exhibit 12:** Complaints received by the County.
- **Exhibit 13:** January 30, 2013, Environmental Noise Analysis, prepared by Bollard Acoustical Consultants, Inc.
- **Exhibit 14:** February 21, 2013, the DPCD generated a letter issued to Donald G. Francis and Stanley A. & Joyce O. Goblirsch stating that the scrap metal recycling operation was not permitted to continue.

- **Exhibit 15:** February 21, 2013, the DER Hazardous Materials Division generated a letter issued to CVR advising the facility was in violation.
- **Exhibit 16:** February 27, 2013, the County received a letter from Thomas H. Terpstra (attorney for CVR) responding to the DPCD letter dated 2/21/13.
- **Exhibit 17:** February 27, 2013, the County received a Public Records Act Request from Thomas H. Terpstra.
- **Exhibit 18:** March 7, 2013, County Counsel generated a letter issued to Thomas H. Terpstra in response to the 2/27/13 letter received by the County.
- **Exhibit 19:** April 16, 2013, the County received a letter from Thomas H. Terpstra responding to the Notice and Order to Abate issued on 4/2/13.
- **Exhibit 20:** May 8, 2013, the County received a letter from Thomas H. Terpstra requesting a hearing to dispute the Notice and Order to Abate issued on 4/2/13.
- **Exhibit 21:** May 10, 2013, County Counsel generated a letter issued to Thomas H. Terpstra in response to the 4/16/13 letter received by the County.
- **Exhibit 22:** May 30, 2013, staff generated a Notice of Hearing to Abate Nuisance and issued it pursuant to Section 2.92.070 of the SCC, to the owners of record, Stanley A. Goblirsch and Joyce O. Goblirsch, PO BOX 1010, Ceres, CA 95307 (on 6/4/13, the DER received the USPS certified receipt card dated May 31, 2013 bearing the signature of Joyce Goblirsch). Copies were also delivered via USPS regular and certified mail to the following: CVR, 524 S. 9th St, Modesto, CA 95351 (on 6/4/13 DER received the USPS certified receipt card dated 5/31/13 with the signature of Richard Francis); Donald G. Francis, Business Owner of CVR, 2220 Millcreek Dr, Modesto, CA 95351 (on 6/4/13 DER received the USPS certified receipt card dated 5/31/13 with the signature of Donald Francis); Thomas H. Terpstra, Attorney at Law, 578 N. Wilma Ave, STE: A, Ripon, CA 95366 (on 6/3/13 DER received the USPS certified receipt card dated 5/31/13 with the signature of Rosie Ruppel); Mark Niskanen, JB Anderson Land Use Planning, 139 S. Stockton Ave, Ripon, CA 95366 (on 6/3/13 DER received the USPS certified receipt card dated 5/31/13 with the signature of Tarise Adarada); Paul Bollard, President of Bollard Acoustical Consultants, Inc., 3551 Bankhead Rd, Loomis, CA 95650 (on 6/5/13 DER received the USPS certified receipt card dated 5/31/13 with the signature of Christina Hamberger). A copy was delivered via department mail to: Angela Freitas, DPCD Director, 1010 10th St, STE: 3400, Modesto, CA 95354.

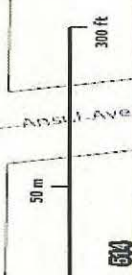
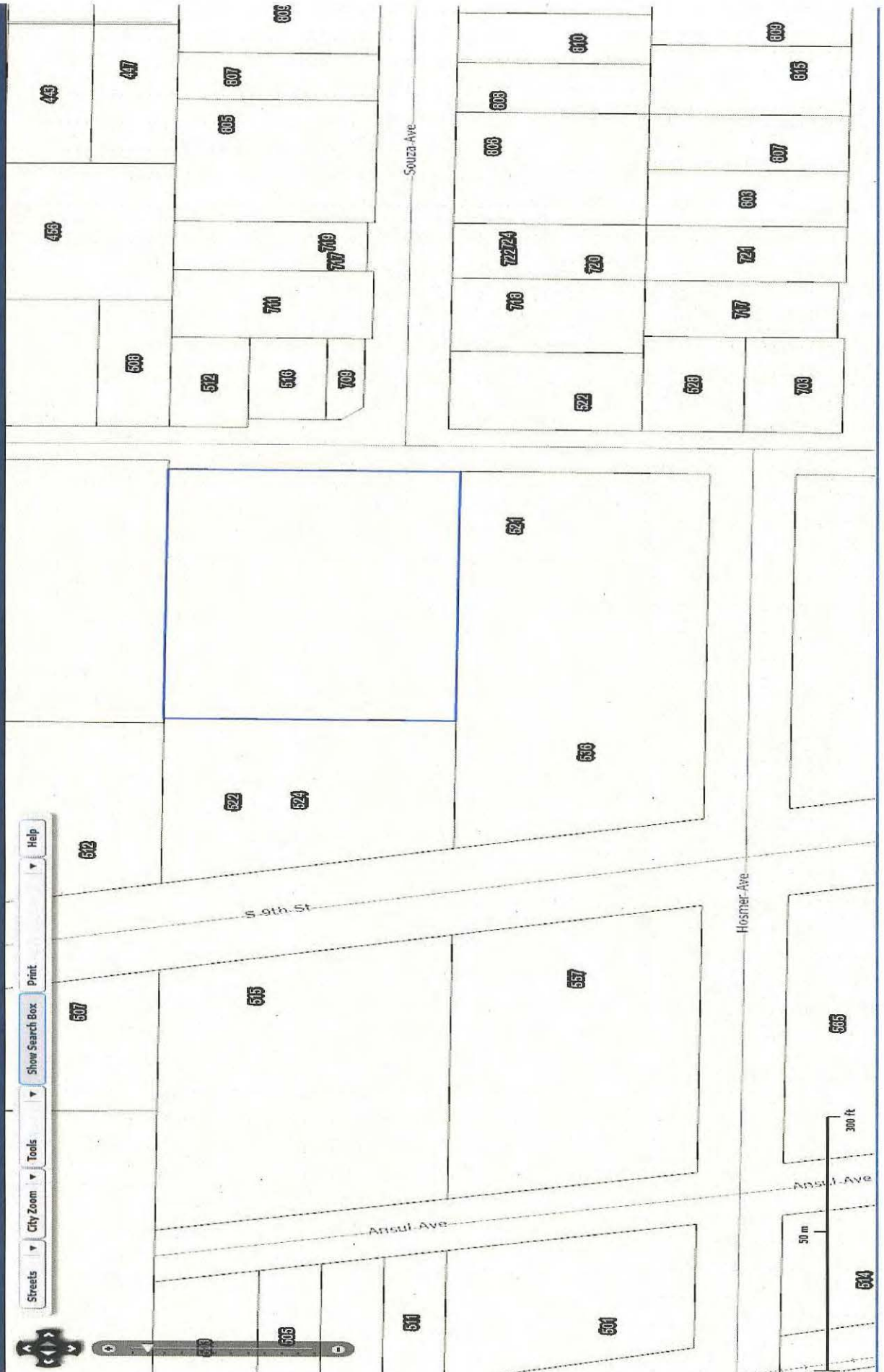
VIOLATIONS:

Based upon the conditions staff observed at the property and reviewing County files, staff found the property owner violated the following provisions of the Stanislaus County Code:

1. §21.56.020 and §21.16.040 of the Stanislaus County Code. Non-Permitted Land Use (scrap metal recycling operation).
2. §21.56.040(D) of the Stanislaus County Code. No operation (scrap metal recycling operation) shall be conducted on any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke, vibration or electrical interference detectable off the site.



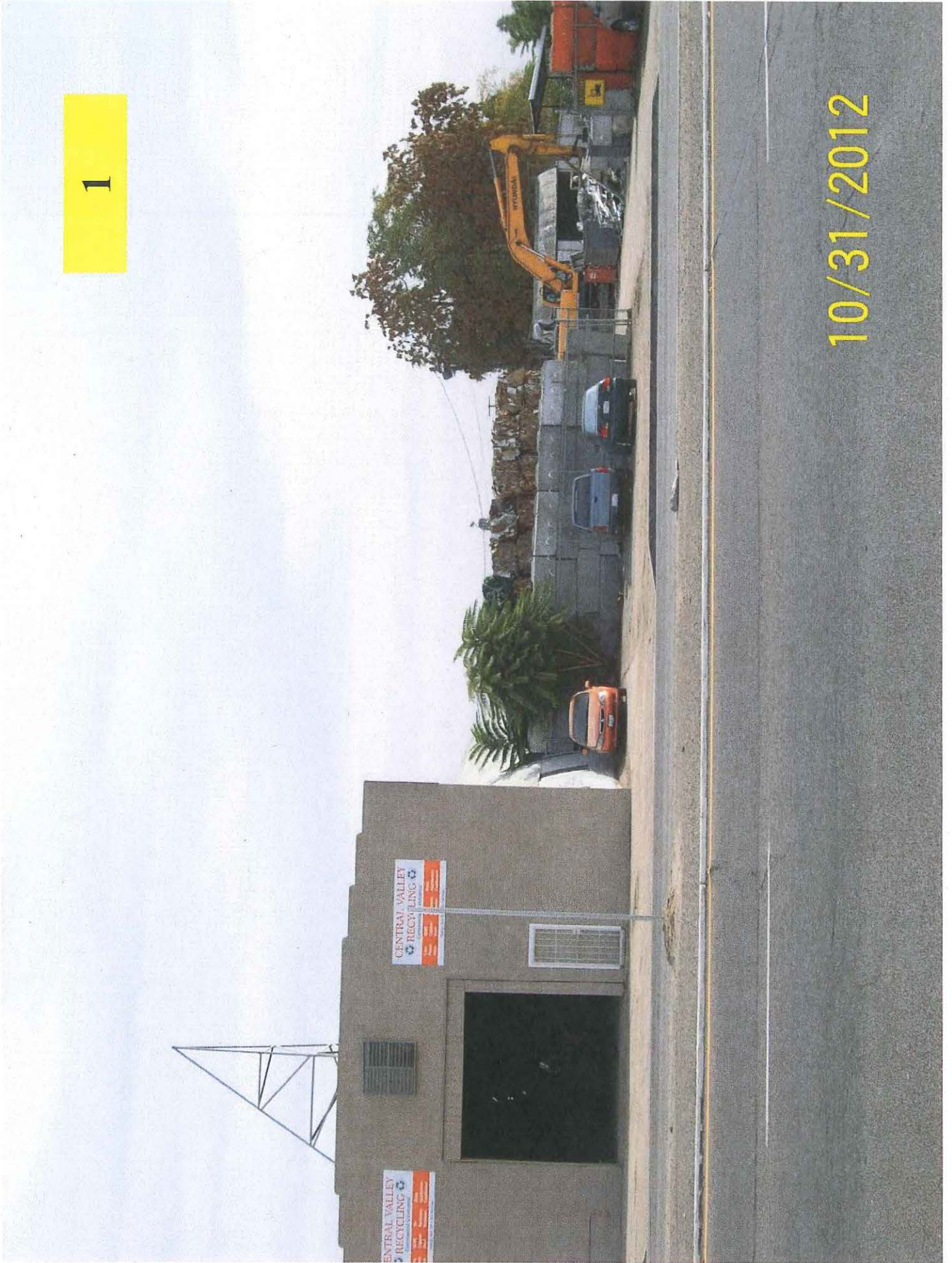
Streets | City Zoom | Tools | Show Search Box | Print | Help





PICTURES

1

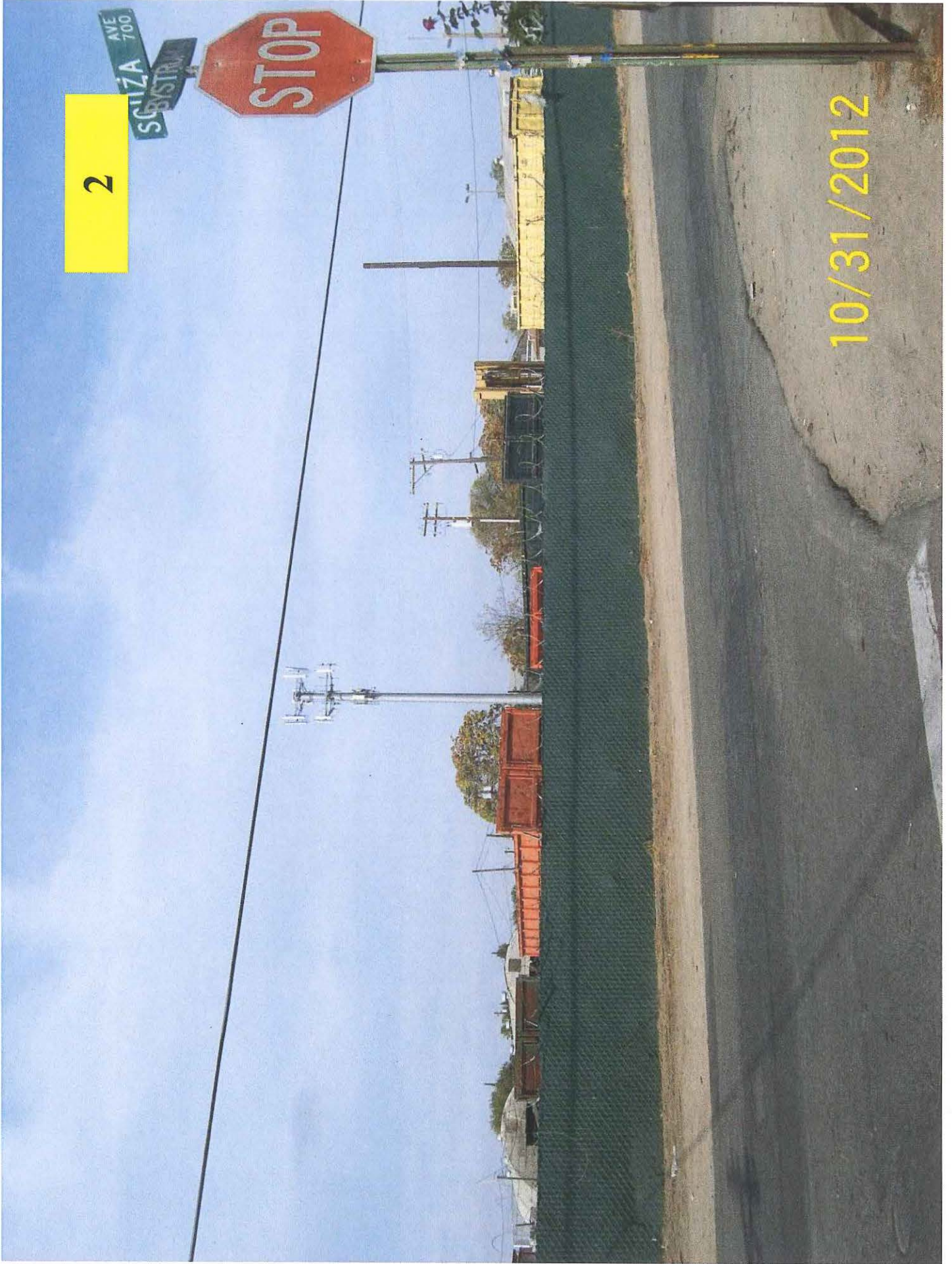


2

SCUZA AVE 700
SYSTEM

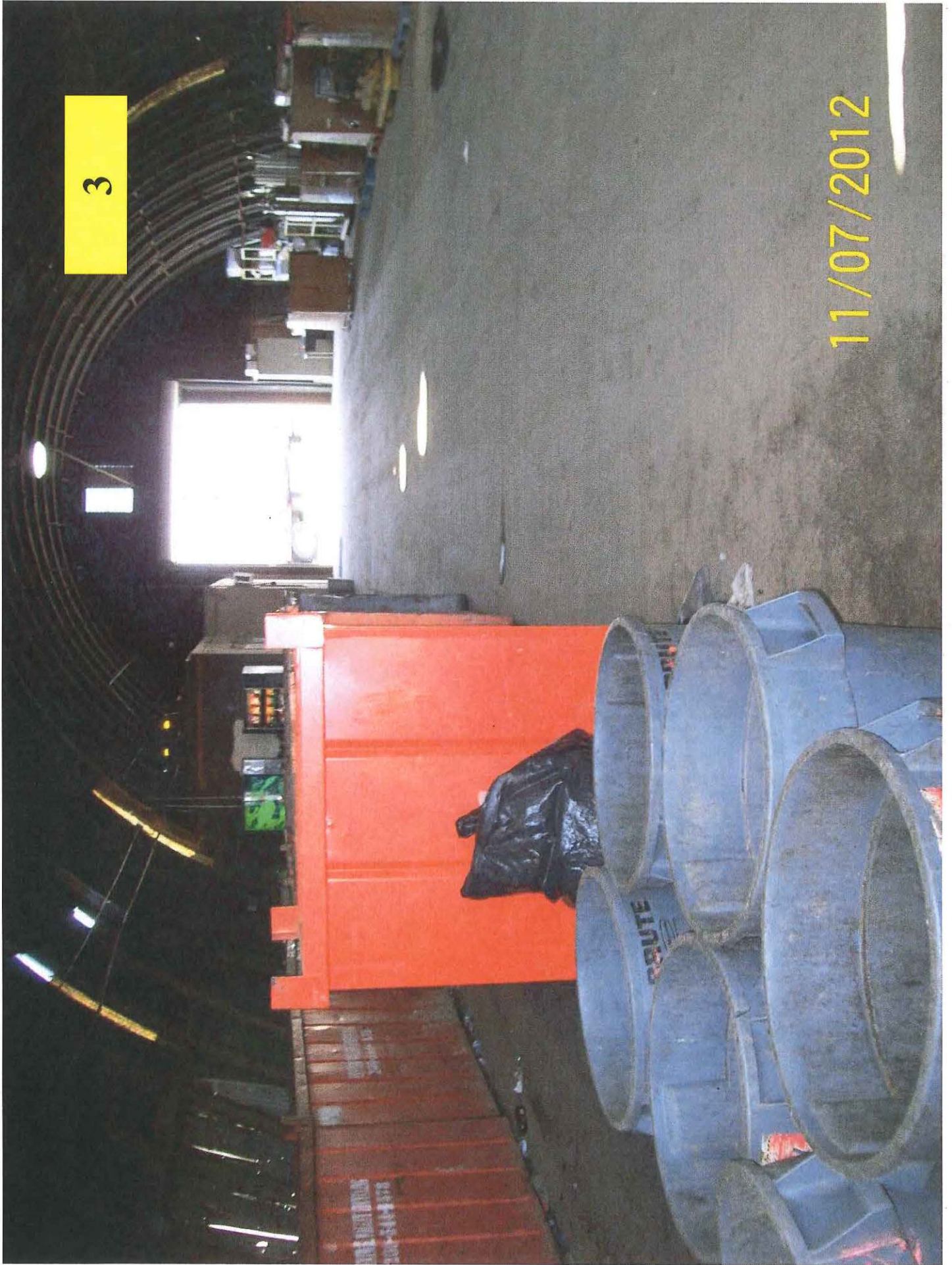
STOP

10/31/2012



3

11/07/2012



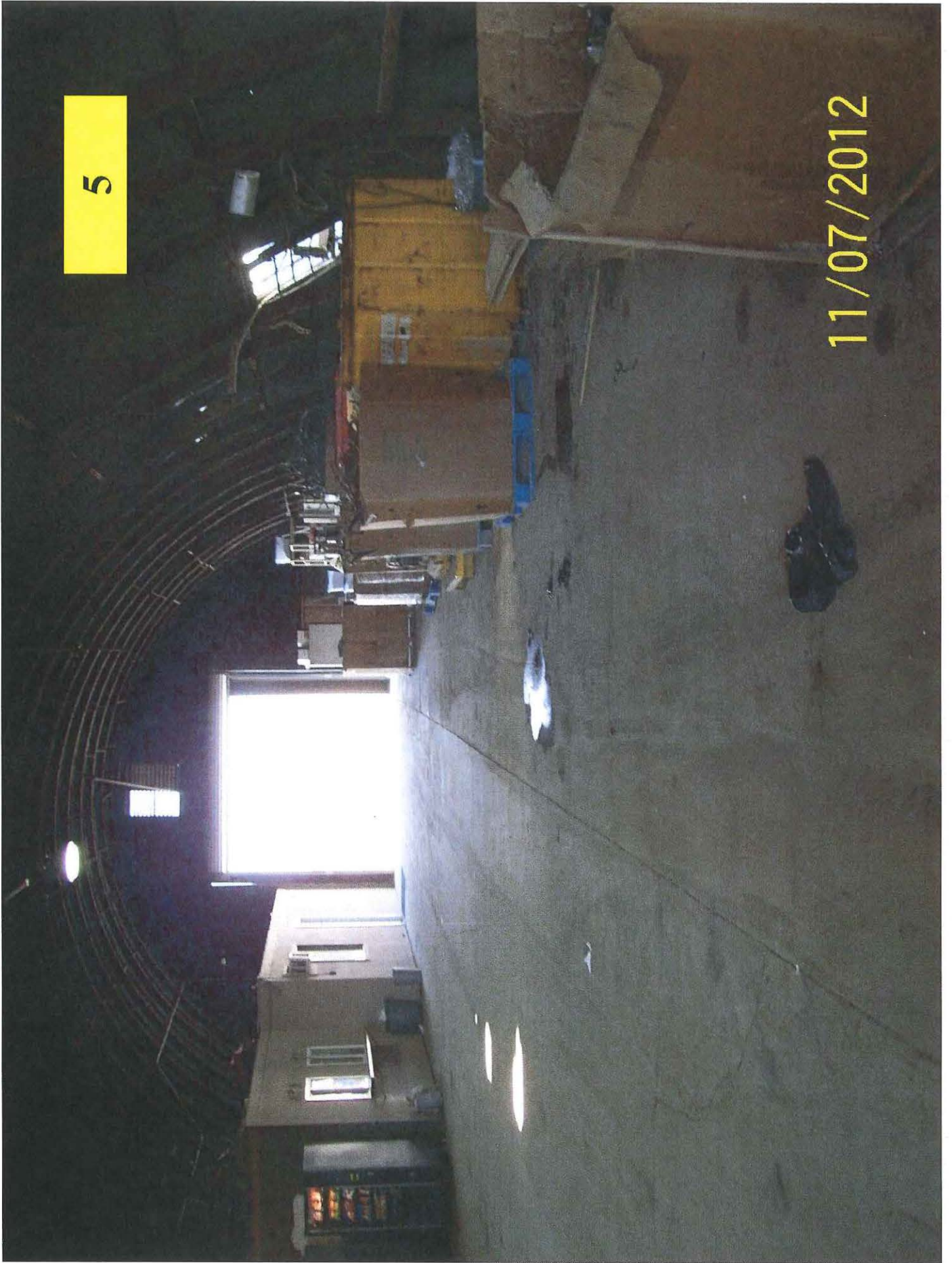
4

11/07/2012

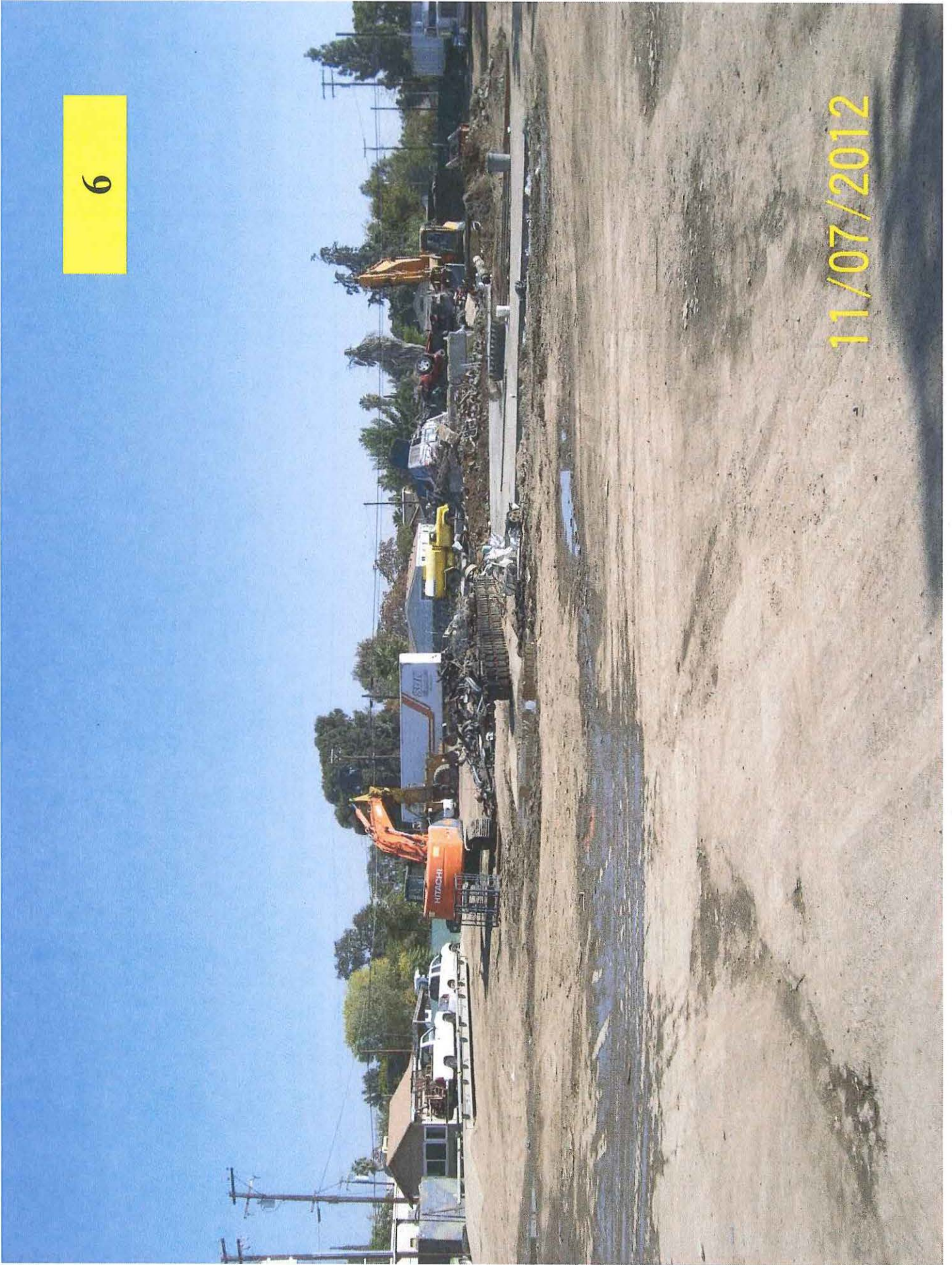


5

11/07/2012

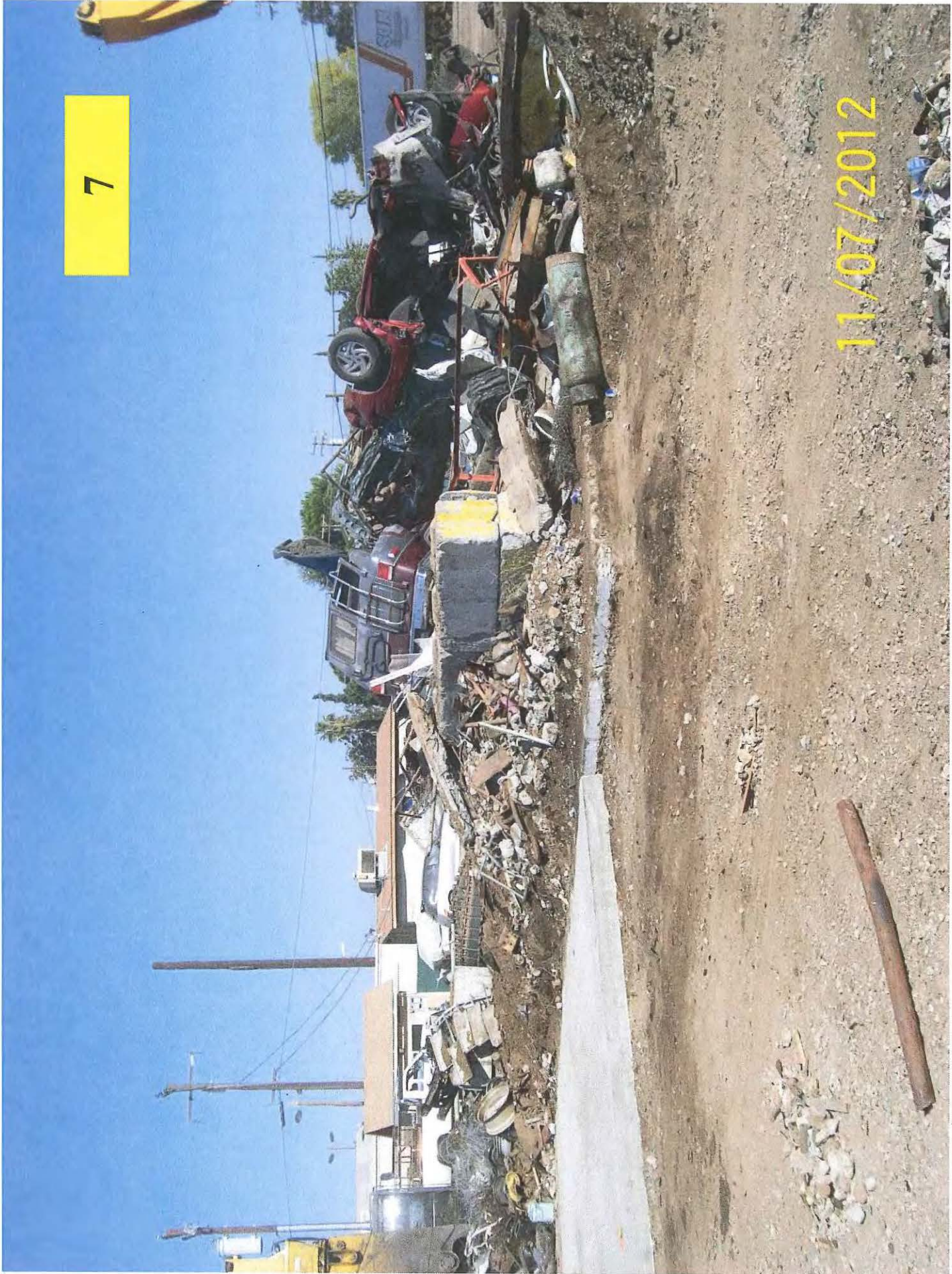


6



11/07/2012

7



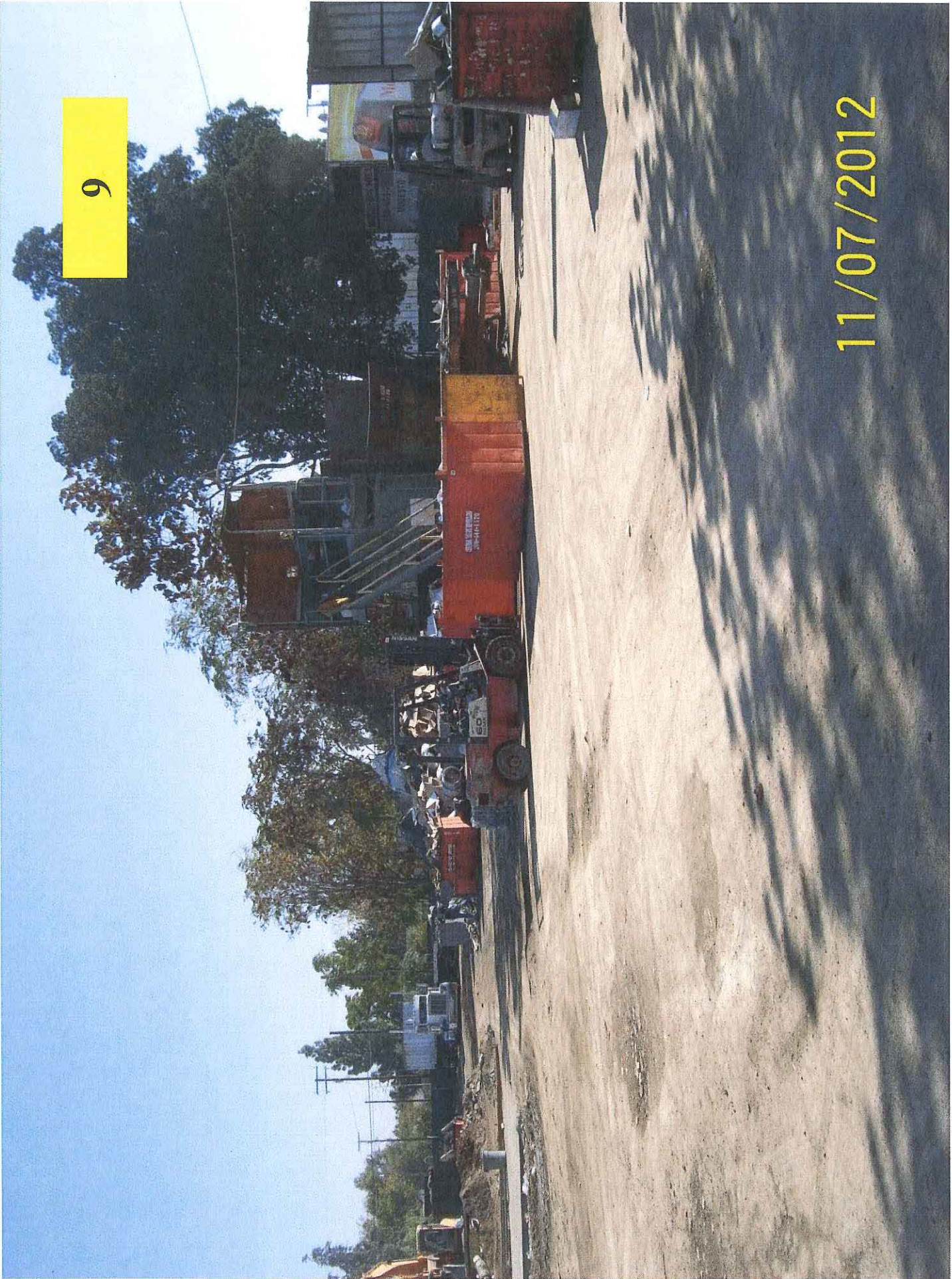
11/07/2012

8

11/07/2012

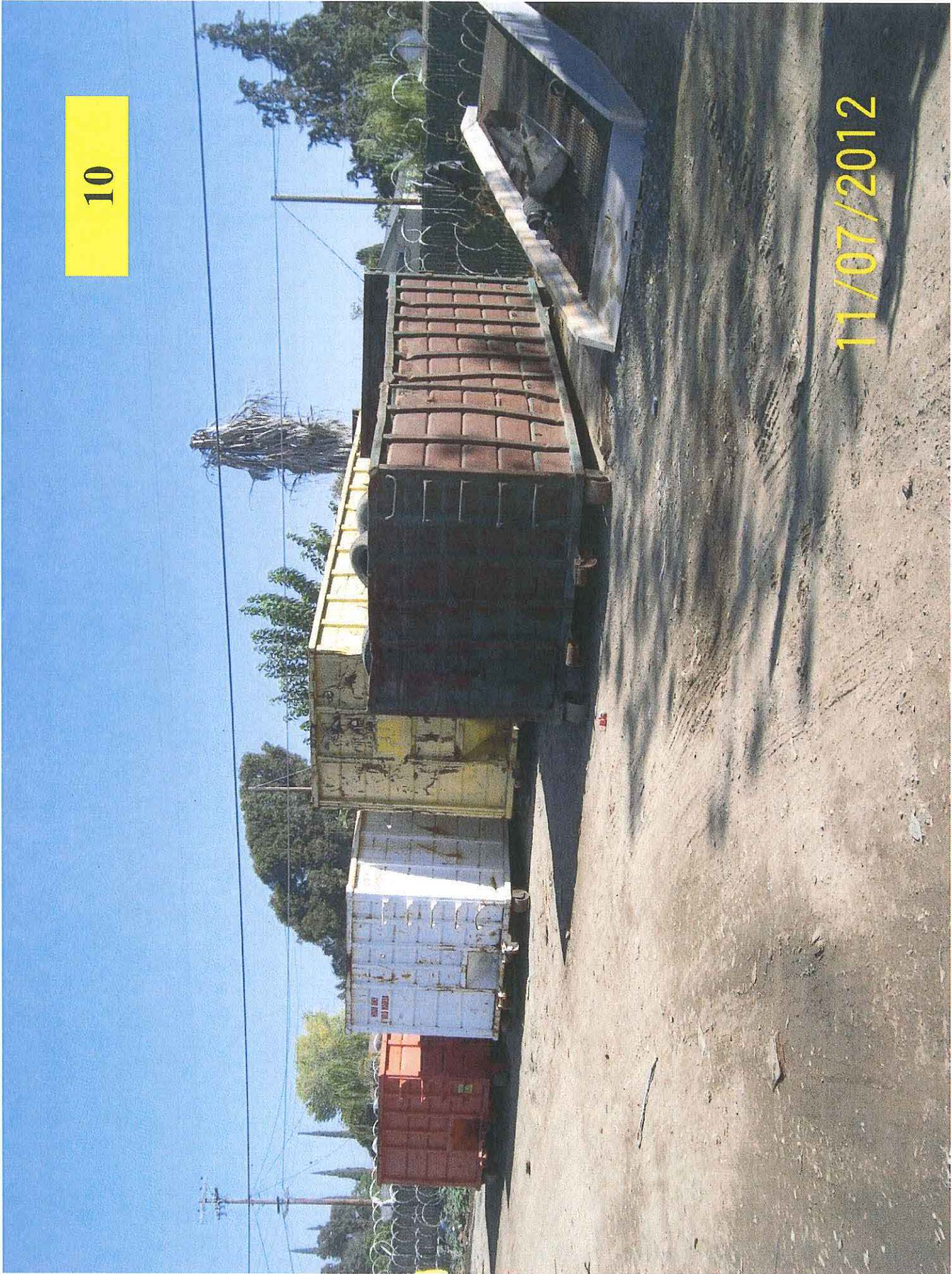


9



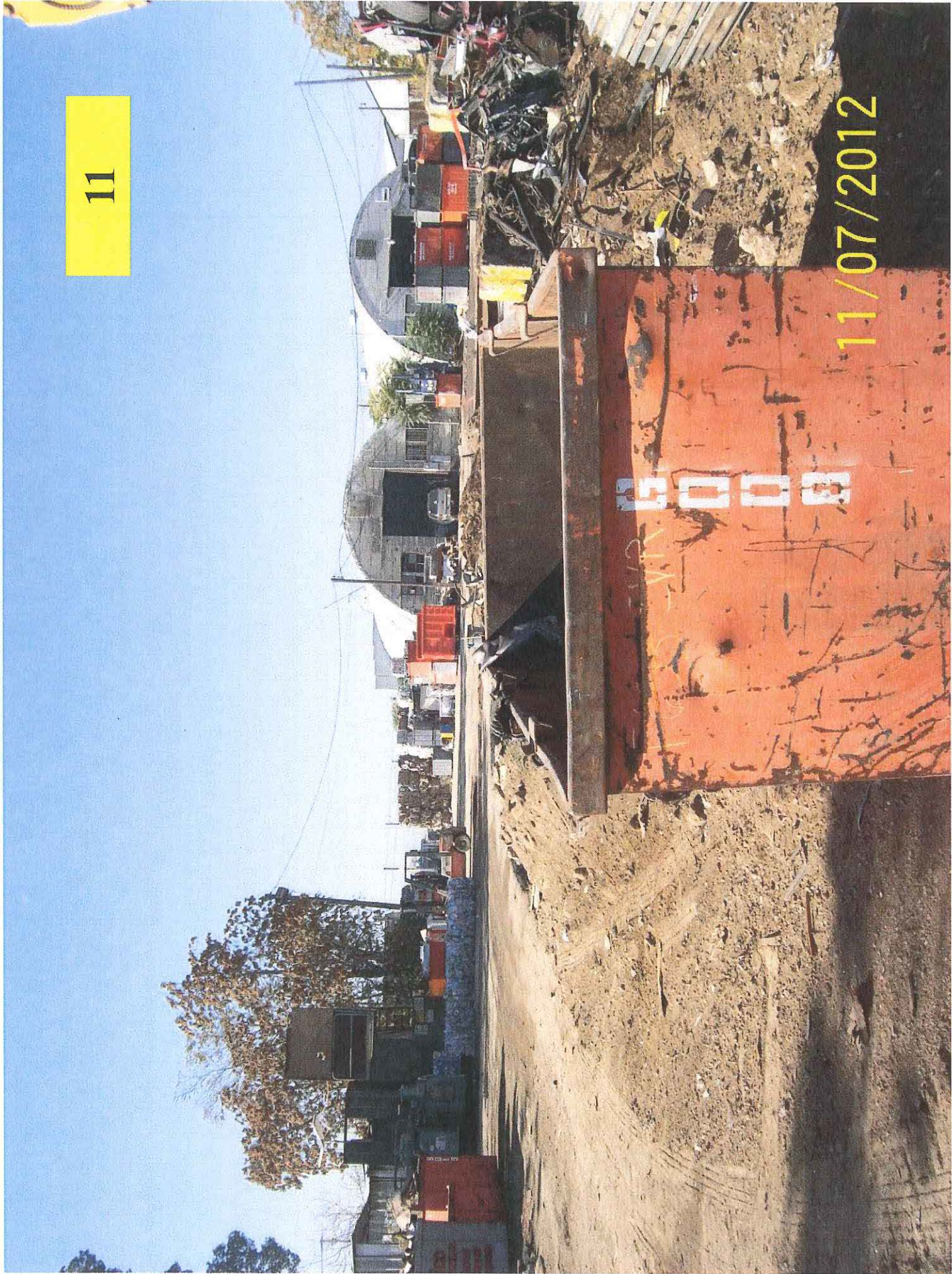
11/07/2012

10

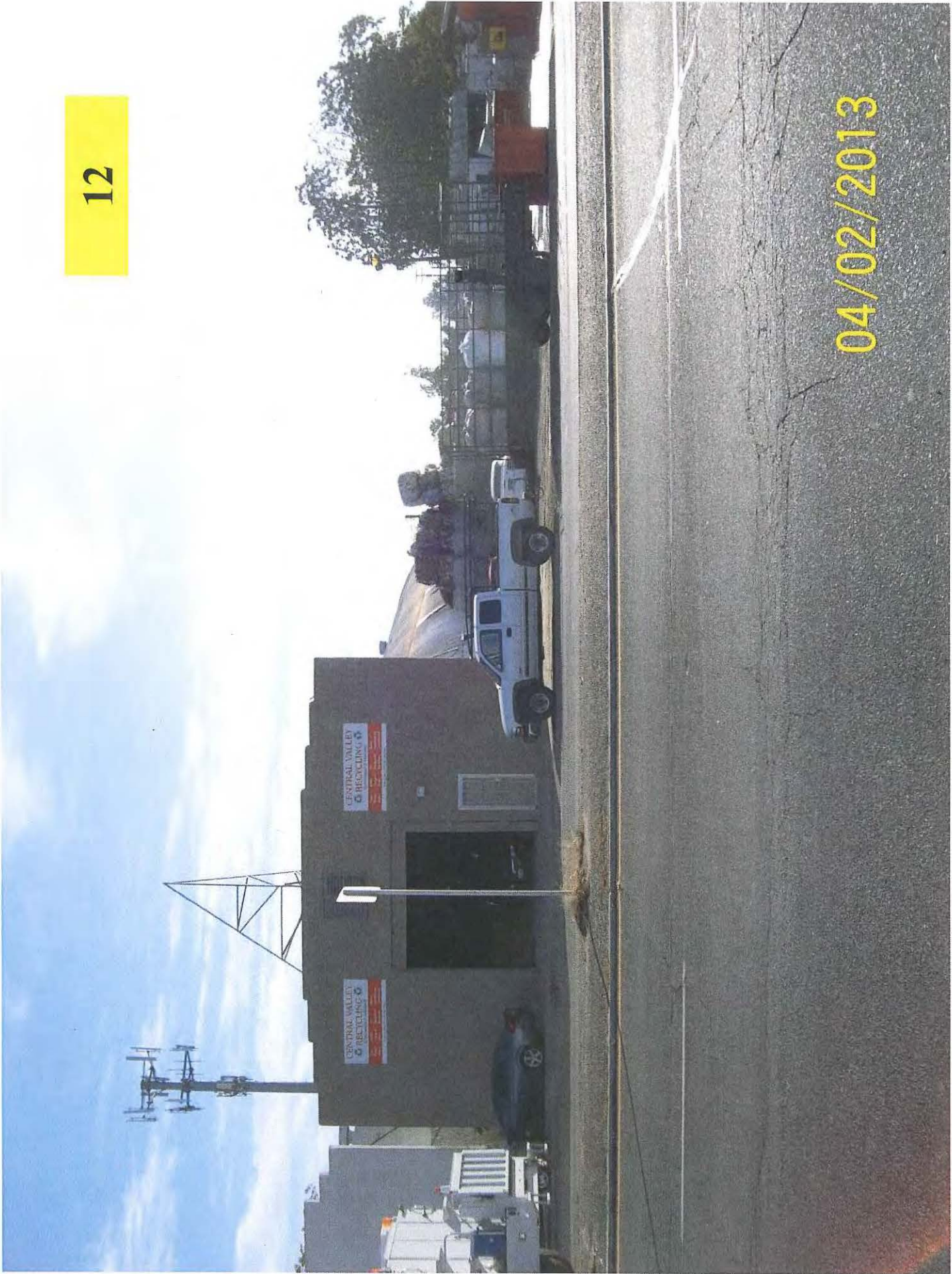


11/07/2012

11

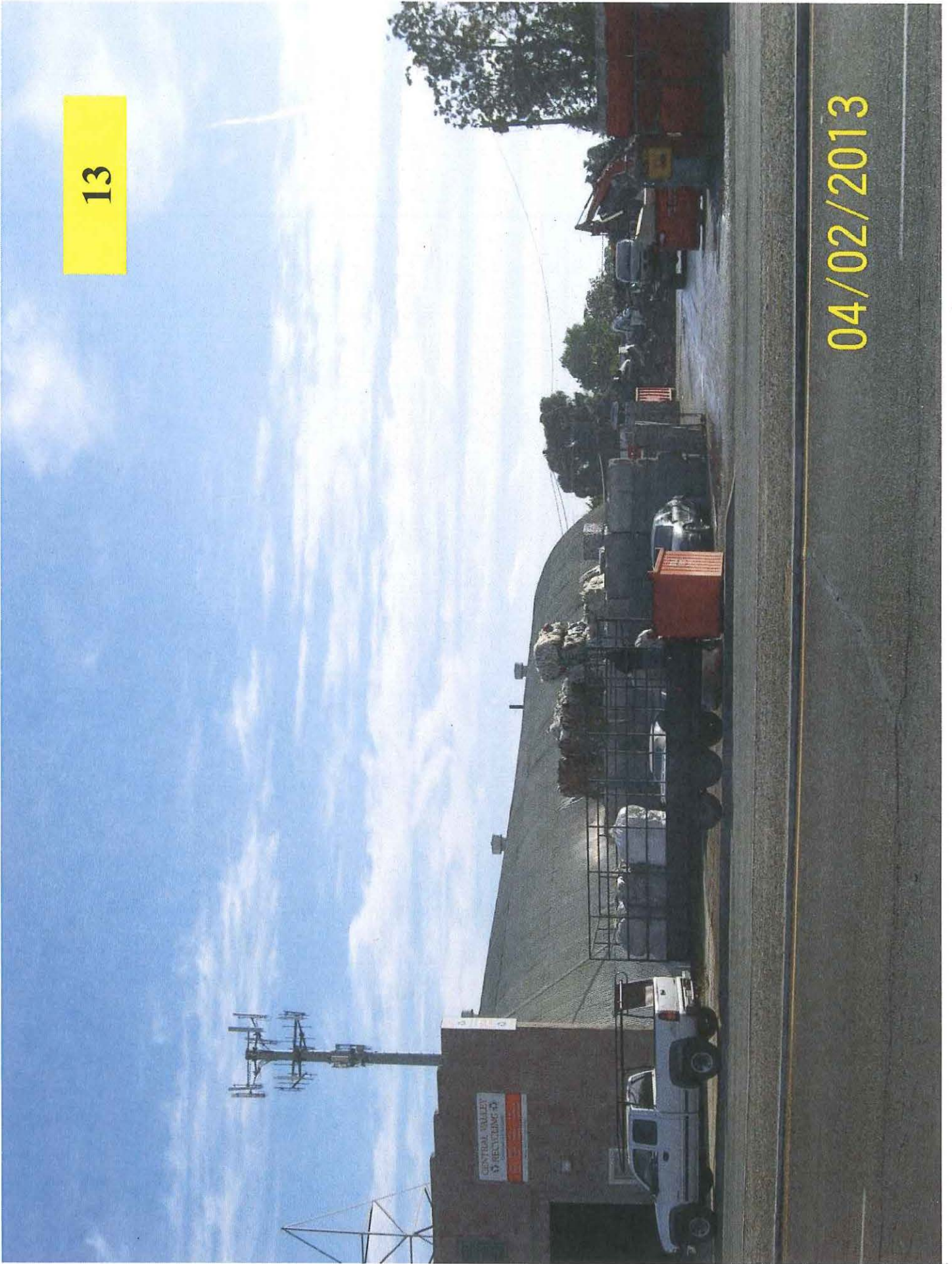


11/07/2012



04/02/2013

13



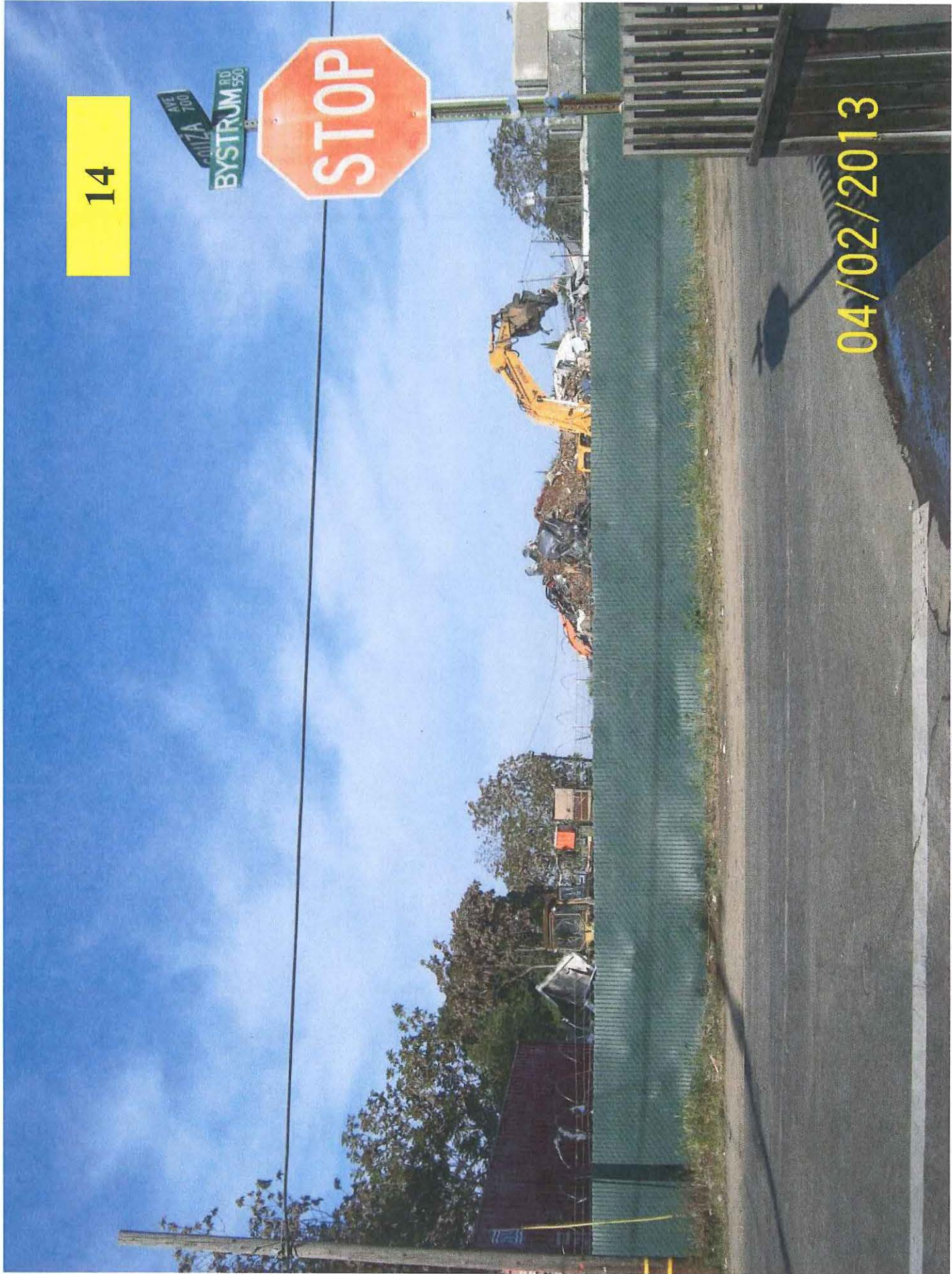
04/02/2013

14

COLIYA AVE 700
BYSTRUM RD 550

STOP

04/02/2013





15

04/02/2013

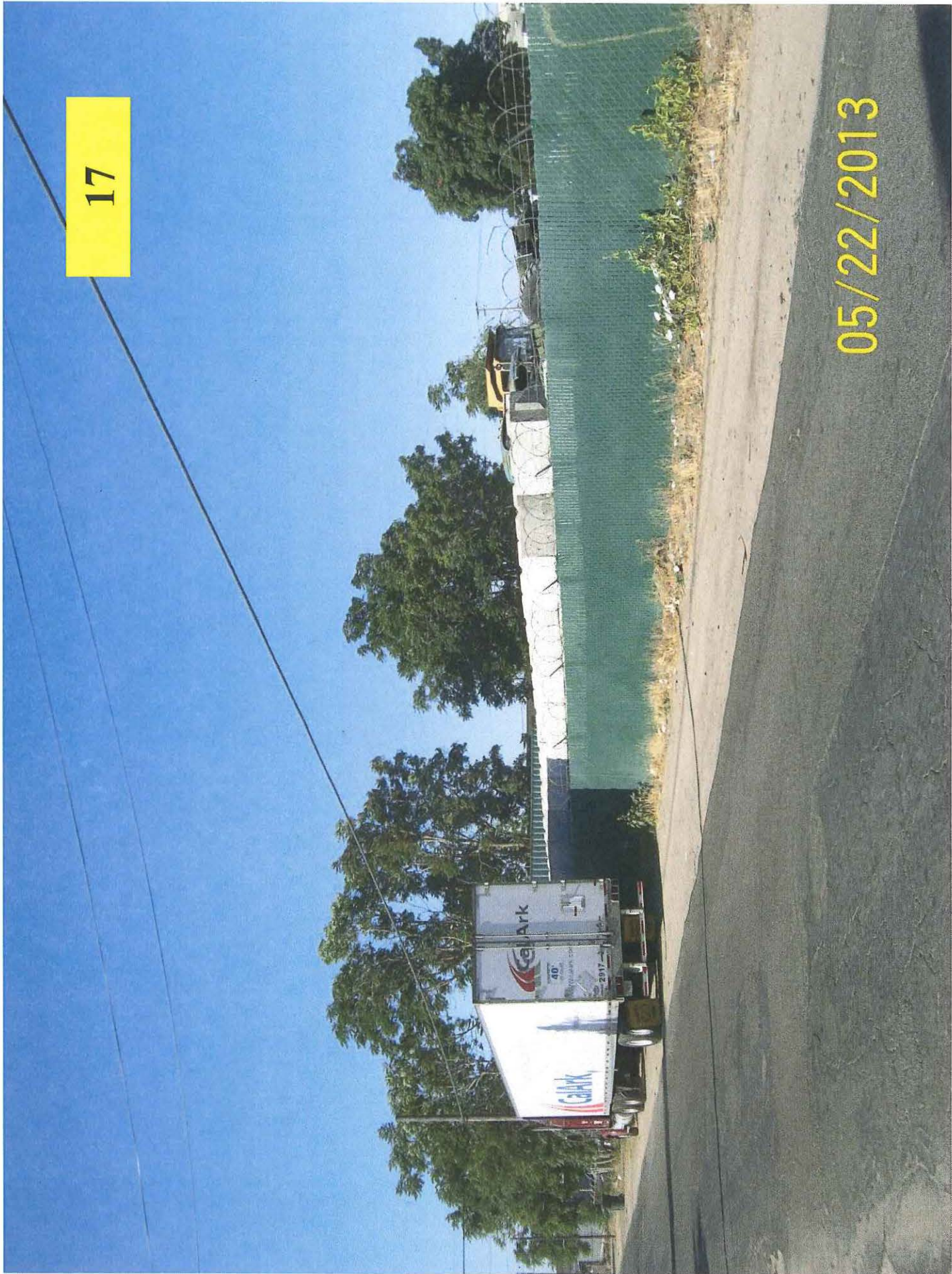
16



05/22/2013

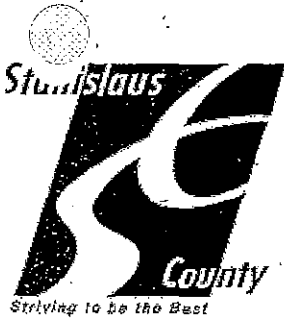


17



05/22/2013





Recording Requested By
And For The Benefit Of:
and
When Recorded Mail To:

County of Stanislaus
Environmental
Resources
Attn: Code Enforcement
Unit
3800 Cornucopia Way,
#C
Modesto, CA 95358-9492

Space Above For Recorder's Use

NOTICE AND ORDER TO ABATE

TO: STANLEY A GOBLIRSCH JOYCE O GOBLIRSCH PO BOX 1010 CERES, CA 95307	RE: File No. DER CE 12-0224 Assessor's Parcel No. 038-012-009 Address: 0 BYSTRUM RD MODESTO, CA 95351
---	---

NOTICE IS HEREBY GIVEN, pursuant to Stanislaus County Code § 2.92.030, that conditions described on **Attachment A** which, by this reference is made a part hereof, exist on the above-referenced real property in the County of Stanislaus, State of California, which conditions are in violation of Stanislaus County Code. These conditions exist to an extent that endangers, the life, health, property, safety or welfare of the public and, as such, constitute a nuisance under Stanislaus County Code § 2.92.010.

YOU ARE HEREBY ORDERED to commence the abatement of the aforementioned nuisance and to thereafter diligently prosecute and complete such abatement within the time frames specified on **Attachment A**. If corrective action is not undertaken and diligently pursued within the time allotted, then the responsible County department may (1) impose an administrative penalty (§ 2.92.060); (2) initiate abatement proceedings pursuant to Government Code sections 25845 or 26528 (§ 2.92.070); (3) commence criminal prosecution (§ 2.92.080); (4) file a civil lawsuit for injunctive relief (§ 2.92.090); and/or (5) initiate any other remedy available under the law (§ 2.92.100).

Pursuant to Stanislaus County Code § 2.92.070 you have the right to request a hearing and be heard before the Nuisance Abatement Hearing Board to dispute the violations contained on **Attachment A**. Requests can be made in person or by calling our office.

In the event that abatement proceedings are initiated, all costs incurred by the County to abate the nuisance will be charged to the owner of the property and shall become a lien against the property under Government Code 25845.

In the event that an administrative citation is issued, the fine or penalty imposed, as confirmed by the Board of Supervisors, shall become a lien against the property under Stanislaus County Code § 2.92.060 E.

For further information concerning this Notice, please contact the Department of Environmental Resources, 3800 Cornucopia Way, Suite C, Modesto, California 95358-9492 or call (209) 525-6700.

Dated: April 2, 2013

DEPARTMENT OF ENVIRONMENTAL RESOURCES

By Robert Miramontes
Robert Miramontes
Code Enforcement Unit

Attachment "A"

RE: File Number CE 12-0224
 Assessor's Parcel Number: 038-012-009
 Address: 0 BYSTRUM RD, MODESTO, CA

Inspection of the above reference property revealed the following violations of Stanislaus County Code §2.92.010:

Code Section Violation:	Corrective Action:	Compliance Date:
§21.56.020 and §21.16.040 of the Stanislaus County Code. Non-Permitted Land Use (scrap metal recycling operation).	Immediately discontinuing the non-permitted land use (scrap metal recycling operation). For information regarding the allowable uses on the property in question, you may consult Stanislaus County Planning and Community Development, located at 1010 10th Street, 3rd Floor, Modesto (209-525-6330).	05/17/2013
§21.56.040(D) of the Stanislaus County Code. No operation (scrap metal recycling operation) shall be conducted on any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke, vibration or electrical interference detectable off the te.	Discontinuing the scrap metal recycling operation which is a nuisance to the public. NOTE: Failure to comply could result in a civil/criminal action being brought against the property owner.	05/17/2013

CC: Central Valley Recycling (CVR), 524 S. 9th St, Modesto, CA 95351
 Donald G. Francis, Business Owner of CVR, 2220 Millcreek Dr, Modesto, CA 95351
 Thomas H. Terpstra, Attorney at Law, 578 N. Wilma Ave, STE: A, Ripon, CA 95366
 Mark Niskanen, JB Anderson Land Use Planning, 139 S. Stockton Ave, Ripon, CA 95366
 Paul Bollard, President of Bollard Acoustical Consultants, Inc., 3551 Bankhead Rd, Loomis, CA 95650
 Angela Freitas, Planning & Community Development Director, 1010 10th St, STE: 3400, Modesto, CA 95354

Enclosures: Stanislaus County Code

9/05/12 letter to Donald Francis from Angela Freitas, Planning & Community Development Director
 02/21/13 letter to Donald Francis from Angela Freitas, Planning & Community Development Director



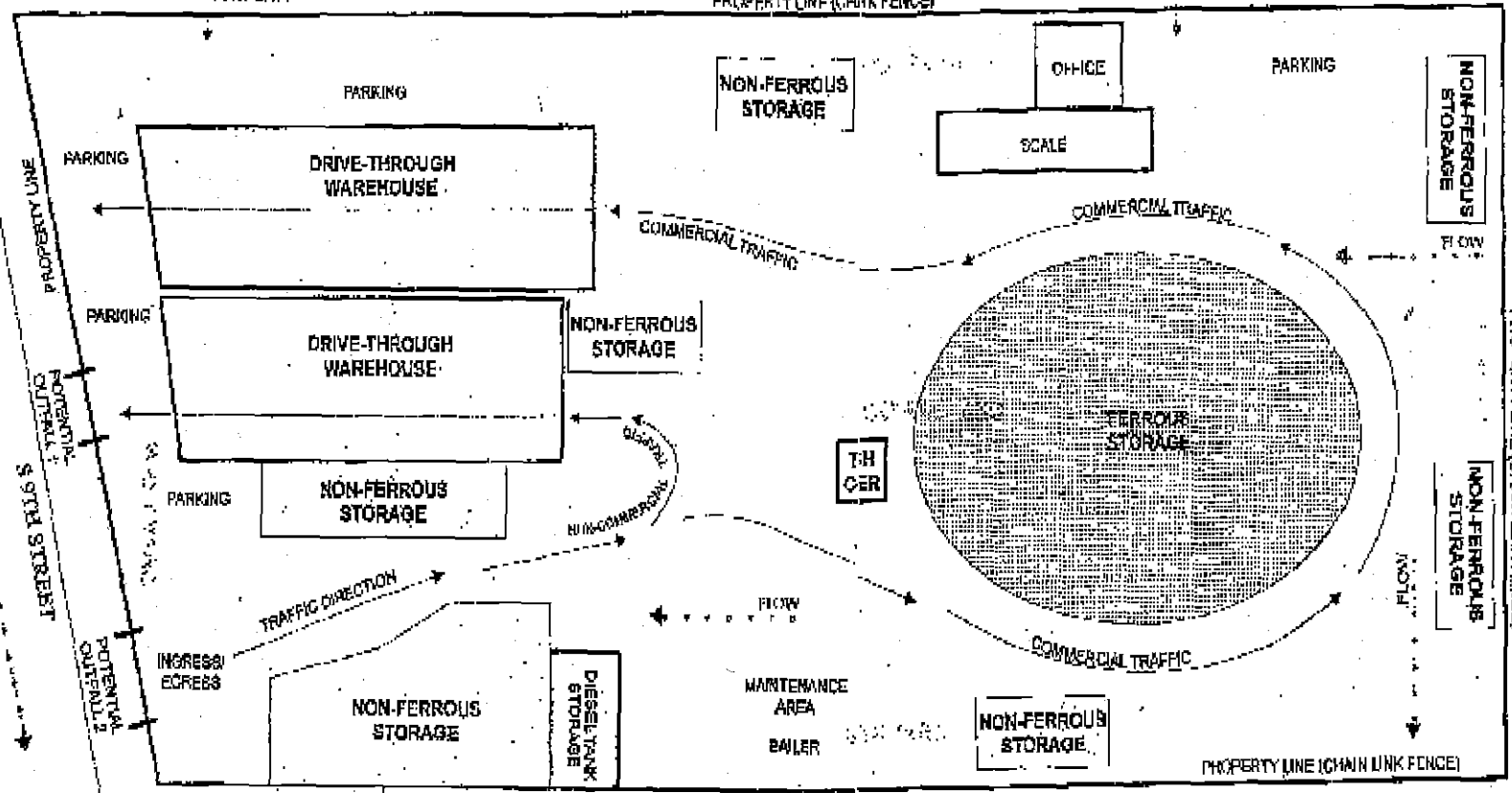
RUN FROM ADJACENT PROPERTY

FILE COPY

FILE COPY

RUN ON FROM ADJACENT PROPERTY

PROPERTY LINE (CHAIN LINK FENCE)



MAP DATA AND PROJECT STATISTICS:

INFORMATION DEPICTED IN THIS MAP IS DERIVED FROM FIELD OBSERVATIONS MADE BY H2E CONSULTING ON JULY 16, 2012, INFORMATION PROVIDED BY CENTRAL VALLEY RECYCLING AND AVAILABLE AERIAL IMAGES AND GIS DATA.

JURISDICTION: COUNTY OF STANISLAUS

SITE ZONING: INDUSTRIAL

AWD06: CENTRAL VALLEY REGION 5

0 82.5 125 167.5

STORAGE INVENTORY DESCRIPTION:

- CRV ALUMINUM CANS
- PLASTIC (HDPE)
- GLASS
- ALUMINUM
- BRASS
- COPPER
- RADIATORS
- STAINLESS STEEL
- BATTERIES
- INSULATED WIRE
- CORRUGATED (PAPER)
- E-WASTE



150

Feet

H2E CONSULTING

FACILITY MAP
CENTRAL VALLEY RECYCLING
MORISTO, CA

DATE: 10/20/12
REV: 2

CHECKED: [Signature]
APPROVED: [Signature]



July 19, 2009

Stanley Goblirsch
4725 Faith Home Road
Ceres, CA 95307

SUBJECT: APN 038-012-009 - BYSTRUM ROAD, IN THE MODESTO/CERES AREA

Dear Mr. Goblirsch:

Upon review of the scrape metal recycling business operating on the subject parcel, the Planning Department has determined the following improvements are necessary to bring the property into compliance with the C-2 (General Commercial) zoning district:

- In accordance with Section 21.08.020(B) of the County Zoning Ordinance, the outside storage of scrape metal must be enclosed within a solid fence of uniform texture of not less than six feet in height. Planning has reviewed and approved your request to utilize an enhanced chain link fence with slates designed to reduce visibility by 98%. The placement of the fence along Bystrum Road must be 30-feet from the ultimate centerline of the roadway.

Planning Department and Public Works Department staff are available to assist you in locating the ultimate centerline of Bystrum Road. Please do not hesitate to contact me at (209) 525-6330 if you have any questions regarding this letter.

Sincerely,

Angela Freitas
Deputy Director

cc: Tod Woodward, DER Code Enforcement Division Manager

EXHIBIT 3





DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

1010 10TH Street, Suite 3400, Modesto, CA 95354
Phone: 209.525.6330 Fax: 209.525.5911

July 21, 2009

Donald G. Francis
2220 Millcreek Dr.
Modesto, CA 95351

SUBJECT: BUSINESS LICENSE APPLICATION: 524 S. 9TH STREET

Dear Mr. Francis,


Staff has reviewed your business license application and has signed off on your request. The business license application has been forwarded to the Tax Collector's Department for business license issuance. The Tax Collector's office can be contacted at 209-525-6388.

Please be aware that the use will be required to be in compliance with Section 21.08.020(B)(1) which states:

No material shall be stored or piled so as to extend higher than fence height at any point nearer than six feet from the fence. Beginning at a line parallel to the fence and six feet within it, material may be piled an additional one foot in height for each additional two feet in distance from the fence.

If you have any questions, our department can be contacted at 209-525-6330.

Sincerely,


Javier Camarena
Assistant Planner



APPROVED
Land Use / Zoning

JUL 21 2009

Stanislaus County
Planning Department

933390

APPLICATION FOR STANISLAUS COUNTY BUSINESS LICENSE



NEW BUSINESS LICENSE
Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354
(209) 525-6330

BUSINESS LICENSE RENEWAL
Treasurer/Tax Collector
P.O. Box 859
Modesto, CA 95353-0859
(209) 525-6388

USE CODE _____ LICENSE NO: _____
FEE \$ _____ EXPIRATION DATE 12/31/
PENALTY \$ _____ C002-012
TOTAL \$ _____
 CASH CHECK NO. _____ CREDIT CARD

PLANNING APPROVAL ITP DATE: 7/21/09
APN: 039-012-008A ZONE C2
 HOME OCCUPATION LEGAL NON CONFORMING
 USE PERMIT

Revised 6/2005

For Office Purposes Only

038-013-008
MARRA 7-2009

Type of business: Recycling & Scrap Approximate date business opened: _____
Description of business activities conducted at business location: Buying cans, plastic, glass & scrap metal

Business name: Central Valley Recycling
(Contact the County Clerk/Recorder's Office for information on obtaining a Fictitious Business Name Statement)

Corporation name (if applicable): Central Valley Recycling

Business location: Bustum Rd & 524 S. 9th Street, Modesto Mailing address: _____
(City, State, Zip) (City, State, Zip)

Do you Own or Rent/Lease property at the business location identified above. (Please check one)

Business phone: 209 544-1578

Business owner's name: DONALD G. FRANCIS Driver's License No. _____
(State Identification) (Copy Required)

Business owner's home address: 2220 Millcreek Dr. Modesto, Ca 95351

Emergency contact person: DONNY FRANCIS Emergency phone: 209 _____
(May be used by law enforcement for after hours emergencies)

Home Occupation Information: (Please read reverse side and sign below)

Days of operation: Mon-Fri 8-5 Tdays Hours: M-F 8-4³⁰ SAT 8-4 Sun 9-3

Type of commercial vehicle associated with business: _____

Additional on-site structures used for business: _____

Co-owner/Partner Information: (Attach additional sheets if necessary)

Name: DONALD L. FRANCIS Home address: 2220 Millcreek Dr. Modesto, Ca
Phone: 209 _____

NOTE: The purpose of this license is to verify compliance with all applicable zoning codes. A business license does not authorize business activities or uses which are not otherwise authorized by the zoning for the property or a preexisting legal nonconforming use or authorize the business owner to conduct a business in violation of local state or federal laws. It is the business owner's responsibility to maintain compliance with all applicable zoning district rules and limitations. Any violation of said rules and limitations render this license void and may result in code enforcement action and/or fine. Any change in the type of business and/or intensity, expansion of a home occupation or legal nonconforming use must be reviewed by the Stanislaus County Planning and Community Development Department for compliance.

I declare under penalty of perjury that I have fully read this application, and provided true statements under the penalty of perjury of the laws of the State of California. If applying for a home occupation, I also declare I have fully read the rules and limitations listed on the reverse side of this application, and by my signature below agree to abide by all rules and limitations.

Donald Francis
Business Owner's Signature

5/4/09
Date

I declare under penalty of perjury that I have fully read this application and grant permission and authority for the operation of the business at the above location.

Property Owner's Signature

Date



Gordon B. Ford
Treasurer/Tax Collector

PO Box 859, Modesto CA 95353-0859
Phone: 209.525.6388 Fax: 209.525.7868

SCRAP METAL DEALER LICENSE APPLICATION

1) Name of owner: DONALD G Francis 2) Age: 25

3) Residential address/es: 2220 Millcreek DR
MODESTO, Ca 95351

4) Calif. DL. No. or ID No. & expiration date: [REDACTED] exp 9/29/11
(Please attach a photocopy)

5) Name of Business: Central Valley Recycling INC.

6) Address/es of Business: 524 S. 9th Street
MODESTO, Ca 95351

7) Phone No.: 209 544-1578 *Glenda*

(If the business is a partnership, association or corporation, the application should be applied by the General Manager or by one having the authority of the General Manager by stating the true name of the business, date of organization, type of business, location of the principal place of business, the names and addresses of its officers. In case of co-partnership, please state the names and addresses of all the partners)

8) Have you conducted a similar business within the twelve months preceding the date of this application: Yes No (Circle One)

If yes, please state the name and address of the place you conducted the business before: Central Valley Recycling
524 S. 9th ST MODESTO, Ca

9) Do you have a California Weighmaster License? Yes No (Circle one)
(If yes, please attach a copy)
(If no, license would be denied.)

10) Have you been convicted of any felony, or in any Court, of a crime punishable by imprisonment for a term exceeding one year?

YES / NO (Circle one)

11) Have you read, understood and would abide by the County Code No. C.S.994 (Chapter 6.74) of 2007 relating to Junk dealers and Scrap Metal recyclers?

YES / NO (Circle one)

I acknowledge that I have read Penal Code Section 496a.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Morristown, California, on 5/21/09

Signature/s: [Handwritten Signature]

Notes:

1. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk in excess of Ten dollars to any person except by paper draft or check.
2. The business hours should be between 7.00 am through 7.00 pm only. No exceptions.
3. The fee for new license is \$250 valid for one year from date of issuance. The annual renewal fee is \$150.00 and the denial appeal fee is \$50.00

(For Office Use only)

Date application received by Tax Collector: _____ Receipt No. _____

Approved

Disapproved

Signatures

Sheriff: _____

Planning & C.D.D.: _____

Env.Resources: _____

Permit issued Number and date: _____

Issued by _____



BUSINESS LICENSE
COUNTY OF STANISLAUS - STATE OF CALIFORNIA

DATE ISSUED

07/21/2009

TYPE OF BUSINESS / BUSINESS NAME & ADDRESS

RECYCLING & SCRAP

LICENSE NUMBER

933390

THE PERSON, FIRM OR CORPORATION
HEREIN NAMED IS HEREBY ISSUED THIS
LICENSE TO CONDUCT BUSINESS IN
ACCORDANCE WITH COUNTY ORDINANCE.
THIS LICENSE IS SUBJECT TO INVESTIGATION.
POST IN A CONSPICUOUS PLACE

CENTRAL VALLEY RECYCLING
524 S. 9TH ST.
MODESTO, CA 95351

EXPIRATION DATE

07/20/2012

AMOUNT PAID

\$150.00

CENTRAL VALLEY RECYCLING
DBA-CENTRAL VALLEY RECYCLING
524 S. 9TH ST.
MODESTO, CA 95351

GORDON B. FORD
TREASURER/TAX COLLECTOR



Stanislaus County Planning and Community Development
 1010 10th Street, Suite 3400 Modesto, CA 95354
 (209) 525-6330 Fax: (209) 525-5911
 E-mail Planning@mail.co.stanislaus.ca.us

7/21/2009'

RECEIVED FROM:
 Donald G. Francis (Central Valley Recycling)

LOCATION OF PROJECT:
 524 S. 9th St.

PLANNER	APPLICATION #	ZONE	STR	GP	APN
JFC	Business License	C-2			038-012-008 & 009

QTY.		UNIT PRICE	TOTAL
1	Business License		\$70.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
SUBTOTAL			
SALES TAX RATE %			\$0.00
SALES TAX			\$0.00
			\$0.00
TOTAL PAID			\$70.00

Thank You

Please Make Check Payable to:
 Stanislaus County

Additional Information:

Payment Method:

Check 4676

EXHIBIT 5 (pg 5)



STANISLAUS COUNTY TAX COLLECTOR
Gordon B. Ford
Stanislaus County Tax Collector, 1010 10th St, Ste 2500
Modesto, CA 95354 PH: 209 525 6388
(209) 525 6388

Date: 07/24/09
Time: 10:45 AM
Page: 1 of 1

PAYMENT RECEIPT

Payor:

CENTRAL VALLEY RECYCLERS
524 S 9TH ST
MODESTO, CA 95351
CK 4676

Assessee:

[Empty box for Assessee information]

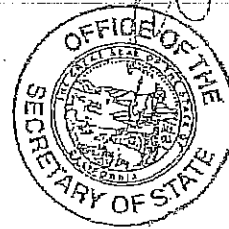
Non-Parcel Fee(s) Paid	Qty	Total Fees
BUSINESS LICENSE -PERMIT	70 \$	70.00

Payment(s) Tendered	Transactions	Total
Check (Check #4676)	1 \$	70.00
Register C002 Collection 12	Total Tendered: \$	70.00
	Change Given: \$	0.00

THANK YOU FOR YOUR PAYMENT
ayrest - Deputy Tax Collector

EXHIBIT 5 (pg 6)

State of California
Secretary of State



I, BRUCE McPHERSON, Secretary of State of the State of California, hereby certify:

That the attached transcript of 2 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAR 28 2006

BRUCE McPHERSON
Secretary of State

2631071

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAR 28 2006

ARTICLES OF INCORPORATION

OF

Central Valley Recycling

ONE: The name of this corporation is Central Valley Recycling.

TWO: The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

THREE: The name and address in this state of the corporation's initial agent for service of process is: Don Francis, 524 s Ninth Street Modesto, California 95351.

FOUR: This corporation is authorized to issue only one class of shares of stock, which shall be designated common stock. The total number of shares it is authorized to issue is 10,000 shares.

FIVE: The names and addresses of the persons who are appointed to act as the initial directors of this corporation are:

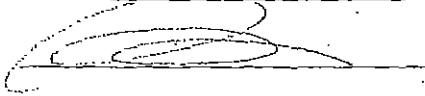
Name	Address
Byron McBroom	901 Country Club Circle Ripon, Ca 95366

SIX: The liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

SEVEN: The corporation is authorized to indemnify the directors and officers of the corporation to the fullest extent permissible under California law.

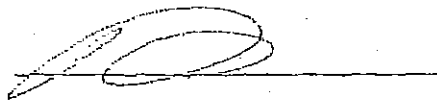
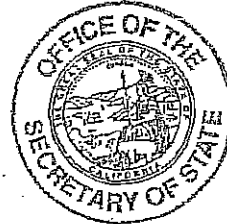
IN WITNESS WHEREOF, the undersigned, being all the persons named above as the initial directors, have executed these Articles of Incorporation.

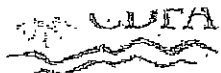
Dated: 3-15-06

A handwritten signature in dark ink, consisting of several loops and a long horizontal stroke at the end.

The undersigned, being all the persons named above as the initial directors, declare that they are the persons who executed the foregoing Articles of Incorporation, which execution is their act and deed.

Dated: 3-15-06

A handwritten signature in dark ink, consisting of several loops and a long horizontal stroke at the end.



42-002 (Rev 7/04)

DEPARTMENT OF FOOD AND AGRICULTURE
DIVISION OF MEASUREMENT STANDARDS

Remit fees to: PO Box 942872, Sacramento, CA 94271-2872
6790 Florin-Perkins Rd., Ste. 100, Sacramento, CA 95828-1812

Email: dms@cdfa.ca.gov Web Address: www.cdfa.ca.gov/dms/programs/wm/wm.htm

Phone #: (916) 229-3040 Fax #: (916) 229-3055

WEIGHMASTER LICENSE

LICENSE NO. 012531

Weighmaster

CENTRAL VALLEY RECYCLING INC.

524 S. 9TH ST

MODESTO, CA 95351

Total Fees Remitted: \$275.00

Effective Date: 3/3/2009

License Year: 03/01/2009 - 03/01/2010

The Weighmaster is responsible to renew this license. (Division 5, Chapter 7, Section 12707, Business and Professions Code)

THIS LICENSE SHALL BE AVAILABLE TO WEIGHTS AND MEASURES OFFICIALS AT EACH WEIGHING LOCATION.

This license is not transferable. Any change in ownership requires a new license.

Principal Location

524 S. 9th St

Modesto, CA 95351

County: Stanislaus

(209) 544-1578

Only persons listed below may perform the functions of a Deputy Weighmaster for the licensed Weighmaster.

(Division 5, Chapter 7, Section 12703, Business and Professions Code)

For instructions on adding/deleting Deputies to your license, refer to the instruction sheet on our website.

<http://www.cdfa.ca.gov/dms/programs/wm/wm.htm>

Deputy Weighmaster(s) - 10

CYRUS, DERRICK

FLORES, DAVID

FORREST, LAURA

FRANCIS, DON

FRANCIS, DONNY

MCDONOUGH, CHUCK

McKENZIE, SCOTT

PÉREZ, ANTHONY

TEAGUE, GLENDA

VELAQUEZ, ANGELICA

Number of vacant deputy positions: 0

EXHIBIT 5 (pg 10)

California Business Portal

SEARCHED BY STATE CLERK DEBRA BOWEN

DISCLAIMER: The information displayed here is current as of SEP 18, 2009 and is updated weekly. It is not a complete or certified record of the Corporation.

Corporation		
CENTRAL VALLEY RECYCLING		
Number: C2861071	Date Filed: 3/28/2006	Status: active
Jurisdiction: California		
Address		
524 NINTH ST.		
MODESTO, CA 95351		
Agent for Service of Process		
DONALD G FRANCO		
2220 MILLCREEK LN.		
MODESTO, CA 95351		

Blank fields indicate the information is not contained in the computer file.

If the status of the corporation is "Surrender", the agent for service of process is automatically revoked. Please refer to California Corporations Code Section 2114 for information relating to service upon corporations that have surrendered.

EXHIBIT 5 (pg 11)

From: TOD WOODWARD <TWOODWARD@envres.org>
To: 'Angela Freitas' <Angela@stancounty.com>
Date: 7/21/2009 10:30:33 am
Subject: RE: 9th Street Recycle Center

CC: ROBERT MIRAMONTES <RMIRAMONTES@envres.org>, ROW...
Yes.

-----Original Message-----

From: Angela Freitas [mailto:Angela@stancounty.com]
Sent: Tuesday, July 21, 2009 9:21 AM
To: TOD WOODWARD
Subject: RE: 9th Street Recycle Center

Based on your e-mail response, is Code Enforcement satisfied the issues have been addressed? If yes, we will send written correspondence with a copy of the approved business license explaining the height restricts.

>>> TOD WOODWARD <TWOODWARD@envres.org> 7/21/2009 9:13 am >>>
Robert and I looked at it this morning and the fence looks good. In regards to the scrap pile, the ordinance is somewhat confusing and I would suggest having a meeting with the Francis' and the property owner to explain the ordinance. Let us know if you want us to attend a meeting.

-----Original Message-----

From: Angela Freitas [mailto:Angela@stancounty.com]
Sent: Tuesday, July 21, 2009 9:02 AM
To: TOD WOODWARD
Cc: Javier camarena
Subject: RE: 9th Street Recycle Center

If approved, Planning will issue the business license to include both parcels. The height restriction is in Section 21.08.020(B)(1). Planning does not intend to approve the business license until Code Enforcement has confirm the original complaint has been addressed.

>>> TOD WOODWARD <TWOODWARD@envres.org> 7/21/2009 6:14 am >>>
Is Planning approving the business license and will it include both parcels? Where can I find the scrap metal height restrictions - I could only find building height restrictions contained in the Development Standards for §21.56.040. I was unable to find any in the general provisions.

-----Original Message-----

From: Angela Freitas [mailto:Angela@co.stanislaus.ca.us]
Sent: Friday, July 17, 2009 5:08 PM
To: Tod Woodward
Subject: 9th Street Recycle Center


Tod,

Please let me know how you want to proceed. The property owner called to inform us he has installed the fence and the business operators have re-submitted their business license. We've inspected and found the fence installed on the east, north, and south. Technically, the entire outside storage yard needs to be enclosed by a fence. In addition, it appears the storage area may be migrating to the adjacent parcel along 9th street and

the height of the scrap metal pile may exceed maximum allowance.
Attached
is the last letter sent to the property owner.



APPLICATION FOR STANISLAUS COUNTY BUSINESS LICENSE

	<input type="checkbox"/> NEW BUSINESS LICENSE Planning & Community Development 1010 10 th Street, Suite 3400 Modesto, CA 95354 (209) 528-6330	USE CODE _____ LICENSE NO. _____ FEE \$ _____ EXPIRATION DATE <u>12/31</u> PENALTY \$ _____ TOTAL \$ _____ <input type="checkbox"/> CASH <input type="checkbox"/> CHECK NO. _____ <input type="checkbox"/> CREDIT CARD
	<input checked="" type="checkbox"/> BUSINESS LICENSE RENEWAL Treasurer/Tax Collector P.O. Box 859 Modesto, CA 95353-0859 (209) 528-6388	PLANNING APPROVAL _____ DATE: _____ APN: _____ ZONE _____ <input type="checkbox"/> HOME OCCUPATION <input type="checkbox"/> LEGAL NON CONFORMING <input type="checkbox"/> USE PERMIT.
		Revised 6/2005 For Office Purposes Only

Type of business: RECYCLING Approximate date business opened: 3/06
 Description of business activities conducted at business location: RECYCLING
 Business name: Central Valley Recycling
 (Contact the County Clerk/Recorder's Office for information on obtaining a Fictitious Business Name Statement)
 Corporation name (if applicable): Central Valley Recycling
 Business location: 524 S. 9th St Mailing address: same

Do you Own or Rent/Lease property of the business location identified above. (Please check one)
 Business phone: 209 544-1578
 Business owner's name: Donald Francis Driver's License No. [REDACTED]
 (State Identification) (Copy Required)
 Business owner's home address: 2220 Millcreek Dr Modesto, Ca 95301
 Emergency contact person: Don Francis Emergency phone: 209 [REDACTED]
 (May be used by law enforcement for after hours emergencies)

Home Occupation Information: (Please read reverse side and sign below)
 Days of operation: m-f Hours: 8:45-5:00 sun 9-3
 Type of commercial vehicle associated with business: _____
 Additional on-site structures used for business: _____

Co-owner/Partner Information: (Attach additional sheets if necessary)
 Name: Donald Francis Home address: 2220 Millcreek Dr
 Phone: 209 544-1578

NOTE: The purpose of this license is to verify compliance with all applicable zoning codes. A business license does not authorize business activities or uses which are not otherwise authorized by the zoning for the property or a preexisting legal nonconforming use or authorize the business owner to conduct a business in violation of local state or federal laws. It is the business owner's responsibility to maintain compliance with all applicable zoning district rules and limitations. Any violation of said rules and limitations render this license void and may result in code enforcement action and/or fine. Any change in the type of business and/or intensity, expansion of a home occupation or legal nonconforming use must be reviewed by the Stanislaus County Planning and Community Development Department for compliance.

I declare under penalty of perjury that I have fully read this application, and provided true statements under the penalty of perjury of the laws of the State of California. If applying for a home occupation, I also declare I have fully read the rules and limitations listed on the reverse side of this application, and by my signature below agree to abide by all rules and limitations.

[Signature] Business Owner's Signature 5/27/10 Date

I declare under penalty of perjury that I have fully read this application and grant permission and authority for the operation of the business at the above location.
[Signature] Property Owner's Signature 8-31/10 Date



OFFICE OF TREASURER/TAX COLLECTOR

Gordon B. Ford
Treasurer/Tax Collector

PO Box 859, Modesto CA 95354-0859
Phone 209, 525, 6998 Fax 209, 525, 7888

SCRAP METAL DEALER LICENSE RENEWAL APPLICATION

1) Name of owner: DOMINIC FRANCIS 2) Age: 27

3) Residential address/es: 2220 Millcreek DR

4) Calif. DL, No. or ID No. & expiration date: 9/29/11
(Please attach a photocopy)

5) Name of Business: Central Valley Recycling

6) Address/es of Business: 524 S. 9TH ST
MODESTO, Ca 95351

7) Telephone No.: 209 544-1578

(If the business is a partnership, association or corporation, the application should be applied by the General Manager or by one having the authority of the General Manager by stating the true name of the business, date of organization, type of business, location of the principal place of business, the names and addresses of its officers. In case of co-partnership, please state the names and addresses of all the partners)

8) Have you conducted a similar business within the twelve months preceding the date of this application: Yes (Circle One)

If yes, please state the name and address of the place you conducted the business before:

Renewal #933390

Central Valley Recycling
524 S. 9TH ST MODESTO, Ca
95351

9) Do you have a California Weighmaster License? Yes (Circle one)
(If yes, please attach a copy)
(If no, license will be denied.)

10) Have you been convicted of any felony, or in any Court, of a crime punishable by imprisonment for a term exceeding one year?

YES / NO (Circle one)



OFFICE OF TREASURER/TAX COLLECTOR

Gordon B. Ford
Treasurer/Tax Collector

PO Box 859, Modesto CA 95359-0859
Phone: 209.525.6308 Fax: 209.525.7888

SCRAP METAL DEALER LICENSE RENEWAL APPLICATION

1) Name of owner: Donald Francis 2) Age: 27

3) Residential address/es: 2220 Millcreek Dr

4) Calif. DL. No. or ID No. & expiration date: 9/29/11
(Please attach a photocopy)

5) Name of Business: Central Valley Recycling

6) Address/es of Business: 524 S. 97th ST
Modesto, Ca 95351

7) Telephone No.: 209 544-1578

(If the business is a partnership, association or corporation, the application should be applied by the General Manager or by one having the authority of the General Manager by stating the true name of the business, date of organization, type of business, location of the principal place of business, the names and addresses of its officers. In case of co-partnership, please state the names and addresses of all the partners)

8) Have you conducted a similar business within the twelve months preceding the date of this application: NO (Circle One)

If yes, please state the name and address of the place you conducted the business before: _____

9) Do you have a California Weighmaster License? NO (Circle one)
(If yes, please attach a copy)
(If no, license will be denied.)

10) Have you been convicted of any felony, or in any Court, of a crime punishable by imprisonment for a term exceeding one year? NO (Circle one)

11) Have you read, understood and will you abide by the County Code No. C.S.994 (Chapter 6.74) of 2007 relating to Junk dealers and Scrap Metal recyclers?

YES / NO (Circle one)

I acknowledge that I have read California Penal Code Section 496a. I declare under penalty of perjury that the foregoing is true and correct.

Executed at Modesto, Ca, California, on 8/27/10

Signature/s: [Signature]

Notes:

1. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk in excess of Ten dollars to any person except by paper draft or check.
2. The business hours should be between 7.00 am through 7.00 pm only. No exceptions.
3. The fee for new license is \$250 valid for one year from date of issuance. The annual renewal fee is \$150.00 and the denial appeal fee is \$50.00

(For Office Use only)

Date application received by Tax Collector: _____ Receipt No. _____

<u>Approved</u>	<u>Disapproved</u>	<u>Signatures</u>	
<input type="checkbox"/>	<input type="checkbox"/>	Sheriff: _____	Date _____
<input type="checkbox"/>	<input type="checkbox"/>	Planning & C.D.D.: _____	Date _____
<input type="checkbox"/>	<input type="checkbox"/>	Env. Resources: _____	Date _____

Permit issued Number and date: _____

Issued by _____

11) Have you read, understood and will you abide by the County Code No. C.S.994 (Chapter 6.74) of 2007 relating to Junk dealers and Scrap Metal recyclers?

YES / NO (Circle one)

I acknowledge that I have read California Penal Code Section 496a. I declare under penalty of perjury that the foregoing is true and correct.

Executed at MODESTO, Ca, California, on 8/27/10

Signature/s: [Signature]

Notes:

1. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk in excess of Ten dollars to any person except by paper draft or check.
2. The business hours should be between 7.00 am through 7.00 pm only. No exceptions.
3. The fee for new license is \$250 valid for one year from date of issuance. The annual renewal fee is \$150.00 and the denial appeal fee is \$50.00

(For Office Use only)

Date application received by Tax Collector: _____ Receipt No. _____

Approved

Disapproved

Signatures

Sheriff: [Signature] Date 9-3-10

Planning & C.D.D.: _____ Date _____

Env. Resources: _____ Date _____

Permit Issued Number and date: _____

Issued by _____

11) Have you read, understood and will you abide by the County Code No. C.S.994 (Chapter 6.74) of 2007 relating to Junk dealers and Scrap Metal recyclers?

YES / NO (Circle one)

I acknowledge that I have read California Penal Code Section 496a. I declare under penalty of perjury that the foregoing is true and correct.

Executed at Modesto, Ca, California, on 8/27/10

Signature/s: [Signature]

Notes:

1. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk in excess of Ten dollars to any person except by paper draft or check.
2. The business hours should be between 7.00 am through 7.00 pm only. No exceptions.
3. The fee for new license is \$250 valid for one year from date of issuance. The annual renewal fee is \$150.00 and the denial appeal fee is \$50.00.

(For Office Use only)

Date application received by Tax Collector: _____ Receipt No. _____

<u>Approved</u>	<u>Disapproved</u>	<u>Signatures</u>	<u>Date</u>
<input type="checkbox"/>	<input type="checkbox"/>	Sheriff: _____	_____
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Planning & C.D.D. <u>C. Traber</u>	Date <u>9-7-2010</u>
<input type="checkbox"/>	<input type="checkbox"/>	Env. Resources: _____	_____

Permit issued Number and date: _____

Issued by _____

11) Have you read, understood and will you abide by the County Code No. C.S.994 (Chapter 6.74) of 2007 relating to Junk dealers and Scrap Metal recyclers?

YES / NO (Circle one)

I acknowledge that I have read California Penal Code Section 496a. I declare under penalty of perjury that the foregoing is true and correct.

Excouted at MODESTO, Ca, California, on 8/27/10

Signature/s: [Signature]

Notes:

1. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk in excess of Ten dollars to any person except by paper draft or check.
2. The business hours should be between 7.00 am through 7.00 pm only. No exceptions.
3. The fee for new license is \$250 valid for one year from date of issuance. The annual renewal fee is \$150.00 and the denial appeal fee is \$50.00

(For Office Use only)

Date application received by Tax Collector: _____ Receipt No. _____

<u>Approved</u>	<u>Disapproved</u>	<u>Signatures</u>	
<input type="checkbox"/>	<input type="checkbox"/>	Sheriff: _____	Date _____
<input type="checkbox"/>	<input type="checkbox"/>	Planning & C.D.D.: _____	Date _____
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Env. Resources: <u>[Signature]</u>	Date <u>9/8/10</u>

Permit Issued Number and date: _____

Issued by _____



Cdfa

42-002 (Rev 7/04)

DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Remit fees to: PO Box 942872, Sacramento, CA 94271-2872

6790 Florin-Perkins Rd., Ste. 100, Sacramento, CA 95828-1812

Email: dms@cdfa.ca.gov Web Address: www.cdfa.ca.gov/dms/programs/wm/wm.html

Phone #: (916) 229-3040 Fax #: (916) 229-3055

WEIGHMASTER LICENSE

LICENSE NO. 012531

Weighmaster

CENTRAL VALLEY RECYCLING INC.

524 S. 8TH ST

MODESTO, CA 95351

Total Fees Remitted: \$315.00

Effective Date: 6/7/2010

License Year: 03/01/2010 - 03/01/2011

The Weighmaster is responsible to renew this license. (Division 5, Chapter 7, Section 12707, Business and Professions Code)

THIS LICENSE SHALL BE AVAILABLE TO WEIGHTS AND MEASURES OFFICIALS AT EACH WEIGHING LOCATION.

This license is not transferable. Any change in ownership requires a new license.

Principal Location

524 S. 8th St

Modesto, CA 95351

County: Stanislaus

(209) 544-1578

Only persons listed below may perform the functions of a Deputy Weighmaster for the licensed Weighmaster.

(Division 5, Chapter 7, Section 12703, Business and Professions Code)

For instructions on adding/deleting Deputies to your license, refer to the instruction sheet on our website.

<http://www.cdfa.ca.gov/dms/programs/wm/wm.html>

Deputy Weighmaster(s) - 12

CYRUS, DERRICK

FLORES, DAVID

FORREST, LAURA

FRANCIS, DON

FRANCIS, DONNY

MACHICHI, REY DAVID

MARTINEZ, DAVID

McKENZIE, SCOTT

RAMERIZ, MICHAEL

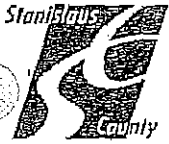
TEAGUE, GLENDA

VELAQUEZ, ANGELICA

WALLIS, KRISTINA

Number of vacant deputy positions: 0





NEW BUSINESS LICENSE APPLICATION
 Planning & Community Development
 1010 10th Street, Suite 3400
 Modesto, CA 95354
 Ph: (209) 525-6330

BUSINESS LICENSE RENEWAL
 Treasurer/Tax Collector
 1010 10th Street, Suite 2500
 Modesto, CA 95354
 Ph: (209) 525-6388

FEE \$ 150 - PENALTY \$ _____ TOTAL \$ _____ LICENSE NO: 933390
 CASH CHECK NO. _____ CREDIT CARD EXPIRATION DATE: 7-20-2012
 APN: _____ ZONE: _____ PLANNING APPROVAL: _____ DATE: _____
 HOME OCCUPATION LEGAL NON CONFORMING USE PERMIT USE CODE: _____
 Revised 6/2010 For County Office Use Only

Type/description of Business: Recycling Date Business Opened _____

Descr of Activities: we buy car + scrap from public

Corporation Name (If applicable) CENTRAL VALLEY RECYCLING
 (If owned by a corporation, please include Articles of Incorporation/LLC papers and list of officers or authorized agents)

Business Name CENTRAL VALLEY RECYCLING
 (A Fictitious Business Name Statement may be required-contact the County Clerk Records Office for more info at (209) 525-5250)

Business Address 524 S. 97th ST City MODESTO State CA Zip 95351

Do you Own or Rent/Lease the property at the business location above (Please select one)

Mailing Address 524 S. 97th ST State CA Zip 95351

Business Owner's Name DONAH FRANCEL Phone# (209) 544-9578

Business Owner's Home Address 2220 Millia Phone# 95351

Dr Lic/ID# _____ Emergency Contact Pe: _____
 (COPY REQUIRED) (May be 1 _____)
 geny Phone# () _____
 mergencies)

Sole Proprietorship Partnership (Please select one)

Co-owner/Partner Information: ***Copy of State ID required for each owner*** (Attach additional sheets if necessary)

Name: _____ Phone # () _____

Address _____ City _____ State _____ Zip _____

Home Occupation Information: (Please read reverse side and sign below)

Days of operation: _____ Hours: _____

Type of commercial vehicle associated with business: _____

Additional on-site structures used for business: _____

NOTE: The purpose of this license is to verify compliance with all applicable zoning codes. A business license does not authorize business activities or uses which are not otherwise authorized by the zoning for the property or a preexisting legal nonconforming use or authorize the business owner to conduct a business in violation of local state or federal laws. It is the business owner's responsibility to maintain compliance with all applicable zoning district rules and limitations. Any violation of said rules and limitations render this license void and may result in code enforcement action and/or fine. Any change in the type of business and/or intensity, expansion of a home occupation or legal nonconforming use must be reviewed by Stanislaus County Planning and Community Development Department for compliance.

I declare under penalty of perjury that I have fully read this application and, provided true statements under the penalty of perjury of the laws of the State of California. If applying for a home occupation, I also have fully read the rules and limitations on the reverse side of this application, and by my signature below agree to abide by all rules and limitations.

Donald Fran Business Owner's Signature Date 7/20/11

I declare under penalty of perjury that I have fully read this application and grant permission and authority for the operation of the business at the above location

Property Owner's Signature or copy of signed leased agreement Date 7/20/11



OFFICE OF TREASURER/TAX COLLECTOR

Gordon B. Ford
Treasurer/Tax Collector

PO Box 859, Modesto CA 95353-0859
Phone: 209.525.6388 Fax: 209.525.7868

SCRAP METAL DEALER LICENSE RENEWAL APPLICATION

1) Name of owner: DONALD Francis 2) Age: 28

3) Residential address/es: 2220 Millcreek Dr
MODESTO, Ca 95357

4) Calif. DL. No. or ID No. & expiration date: _____
(Please attach a photocopy)

5) Name of Business: Central Valley Recycling

6) Address/es of Business: 524 S. 9th St
MODESTO, Ca 95351

7) Telephone No.: 209 544-1578

(If the business is a partnership, association or corporation, the application should be applied by the General Manager or by one having the authority of the General Manager by stating the true name of the business, date of organization, type of business, location of the principal place of business, the names and addresses of its officers. In case of co-partnership, please state the names and addresses of all the partners)

8) Have you conducted a similar business within the twelve months preceding the date of this application: Yes (Circle One)

If yes, please state the name and address of the place you conducted the business before:

Renewal 933390

9) Do you have a California Weighmaster License? Yes (Circle one)
(If yes, please attach a copy)
(If no, license will be denied.)

10) Have you been convicted of any felony, or in any Court, of a crime punishable by imprisonment for a term exceeding one year?

YES / NO (Circle one)

11) Have you read, understood and will you abide by the County Code No. C.S.994 (Chapter 6.74) of 2007 relating to Junk dealers and Scrap Metal recyclers?

YES / NO (Circle one)

I acknowledge that I have read California Penal Code Section 496a.
I declare under penalty of perjury that the foregoing is true and correct.

Executed at Mooresville, California, on 6/25/11

Signature/s: Ronald Jean

Notes:

1. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk in excess of Ten dollars to any person except by paper draft or check.
2. The business hours should be between 7.00 am through 7.00 pm only. No exceptions.
3. The fee for new license is \$250 valid for one year from date of issuance. The annual renewal fee is \$150.00 and the denial appeal fee is \$50.00

(For Office Use only)

Date application received by Tax Collector: 7/20/11 Receipt No. C 004 004

<u>Approved</u>	<u>Disapproved</u>	<u>Signatures</u>	
<input type="checkbox"/>	<input type="checkbox"/>	Sheriff:	_____ Date _____
<input type="checkbox"/>	<input type="checkbox"/>	Planning & C.D.D.:	_____ Date _____
<input type="checkbox"/>	<input type="checkbox"/>	Env.Resources:	_____ Date _____

Permit issued Number and date: _____

Issued by _____

11) Have you read, understood and will you abide by the County Code No. C.S.994 (Chapter 6.74) of 2007 relating to Junk dealers and Scrap Metal recyclers?

YES NO (Circle one)

I acknowledge that I have read California Penal Code Section 496a.
I declare under penalty of perjury that the foregoing is true and correct.

Executed at Moder, California, on 6/25/11

Signature/s: Donald Tran

Notes:

1. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk in excess of Ten dollars to any person except by paper draft or check.
2. The business hours should be between 7.00 am through 7.00 pm only. No exceptions.
3. The fee for new license is \$250 valid for one year from date of issuance. The annual renewal fee is \$150.00 and the denial appeal fee is \$50.00

(For Office Use only)

Date application received by Tax Collector: 7/20/11 Receipt No. C 004 004

<u>Approved</u>	<u>Disapproved</u>	<u>Signatures</u>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sheriff: <u>Sayon # DA</u>	Date <u>9-7-11</u>
<input type="checkbox"/>	<input type="checkbox"/>	Planning & C.D.D.:	Date _____
<input type="checkbox"/>	<input type="checkbox"/>	Env.Resources:	Date _____

Permit issued Number and date: _____

Issued by _____

11) Have you read, understood and will you abide by the County Code No. C.S.994 (Chapter 6.74) of 2007 relating to Junk dealers and Scrap Metal recyclers?

YES NO (Circle one)

I acknowledge that I have read California Penal Code Section 496a. I declare under penalty of perjury that the foregoing is true and correct.

Executed at MODOCLO, California, on 6/25/11

Signature/s: Donald Fran

Notes:

1. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk in excess of Ten dollars to any person except by paper draft or check.
2. The business hours should be between 7.00 am through 7.00 pm only. No exceptions.
3. The fee for new license is \$250 valid for one year from date of issuance. The annual renewal fee is \$150.00 and the denial appeal fee is \$50.00

(For Office Use only)

Date application received by Tax Collector: 7/20/11 Receipt No. C604004

Approved

Disapproved

Signatures

Sheriff: _____ Date _____

Planning & C.D.D.: C. Maben Date July 20, 2011

Env. Resources: _____ Date _____

Permit issued Number and date: _____

Issued by _____

11) Have you read, understood and will you abide by the County Code No. C.S.994 (Chapter 6.74) of 2007 relating to Junk dealers and Scrap Metal recyclers?

YES / NO (Circle one)

I acknowledge that I have read California Penal Code Section 496a. I declare under penalty of perjury that the foregoing is true and correct.

Executed at MODESTO, California, on 6/25/11

Signature/s: Donald Tran

Notes:

1. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk in excess of Ten dollars to any person except by paper draft or check.
2. The business hours should be between 7.00 am through 7.00 pm only. No exceptions.
3. The fee for new license is \$250 valid for one year from date of issuance. The annual renewal fee is \$150.00 and the denial appeal fee is \$50.00

(For Office Use only)

Date application received by Tax Collector: 7/20/11 Receipt No. C604004

<u>Approved</u>	<u>Disapproved</u>	<u>Signatures</u>	
<input type="checkbox"/>	<input type="checkbox"/>	Sheriff: _____	Date _____
<input type="checkbox"/>	<input type="checkbox"/>	Planning & C.D.D.: _____	Date _____
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Env. Resources: <u>[Signature]</u>	Date <u>7/20/11</u>

Permit issued Number and date: _____

Issued by _____



STANISLAUS COUNTY TAX COLLECTOR
Gordon B. Ford, Stanislaus County Tax Collector
1010 10th St. Ste 2500 Modesto, CA 95354, Ph:209-525-6388

Date: 07/20/11
Time: 02:33 PM
Page: 1 of 1

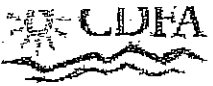
PAYMENT RECEIPT

Payor:

CENTRAL VALLEY RECYCLING
SCRAP METAL RENEWAL
CK 10448

Assessee:

Non-Parcel Fee(s) Paid	Qty	Total Fees
SCRAP METAL DEALER	150 \$	150.00
Payment(s) Tendered	Transactions	Total
Check (Check #10448)	1 \$	150.00
Register C004 Collection 4	Total Tendered: \$	150.00
	Change Given: \$	0.00



DEPARTMENT OF FOOD AND AGRICULTURE
DIVISION OF MEASUREMENT STANDARDS

Remit fees to: PO Box 942872, Sacramento, CA 94271-2872
6790 Florin-Perkins Rd., Ste. 100, Sacramento, CA 95828-1812

Email: dms@cdfa.ca.gov Web Address: www.cdfa.ca.gov/dms/programs/wm/wm.html
Phone #: (916) 229-3040 Fax #: (916) 229-3055

002 (Rev 7/04)

WEIGHMASTER LICENSE

LICENSE NO. 012531

Weighmaster

CENTRAL VALLEY RECYCLING INC.
524 S. 9TH ST
MODESTO, CA 95351

Total Fees Remitted: \$390.00

Effective Date: 7/30/2011

License Year: 03/01/2011 - 03/01/2012

~~The Weighmaster is responsible to renew this license. (Division 5, Chapter 7, Section 12703, Business and Professions Code)~~

THIS LICENSE SHALL BE AVAILABLE TO WEIGHTS AND MEASURES OFFICIALS AT EACH WEIGHING LOCATION.
This license is not transferable. Any change in ownership requires a new license.

Principal Location

524 S. 9th St
Modesto, CA 95351
County: Stanislaus
(209) 544-1578

Only persons listed below may perform the functions of a Deputy Weighmaster for the licensed Weighmaster.
(Division 5, Chapter 7, Section 12703, Business and Professions Code)

For instructions on adding/deleting Deputies to your license, refer to the instruction sheet on our website.
<http://www.cdfa.ca.gov/dms/programs/wm/wm.html>

Deputy Weighmaster(s) - 10

CASTELLANOS, ALFONSO	CASTILLO, MAYRA	FARIAS, MODESTA
FORREST, LAURA	FRANCIS, DON	MANZO, GERALD
MARTINEZ, DAVID	MURILLO, JESUS	ORTIZ, GABRIEL
TEAGUE, GLENDA		

Number of vacant deputy positions: 2

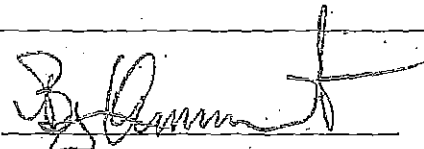
EXHIBIT 7 (pg 8)





DEPARTMENT OF ENVIRONMENTAL RESOURCES
3800 Cornucopia Way, Suite C Modesto, CA 95358-9494
Phone: 209.525.6700 Fax: 209.525.6774

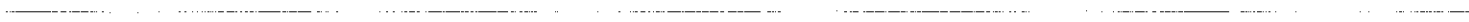
RECYCLING CENTER PERMIT

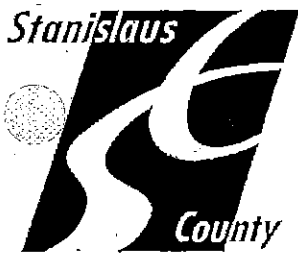
PERMIT #:	PR-1004-12
PERMIT TERM:	1/1/2012 to 12/31/2012
PERMIT LOCATION:	524 S. 9 TH MODESTO, CA
PERMITTEE:	DONALD L. FRANCIS & DONALD G. FRANCIS
BUSINESS/SITE NAME:	CENTRAL VALLEY RECYCLING
BUSINESS ADDRESS:	524 S. 9 TH , MODESTO, CA 95351
Issued by: 	Date: <u>11/3/12</u>
<u>BRYAN KUMIMOTO REHS</u> (Print name)	

The referenced Permittee is hereby granted permission to operate as a Recycling Center in Stanislaus County.

STANDARD CONDITIONS:

This Permit may be suspended or revoked by the Department for cause. This Permit is granted on condition that the person(s) named in the Permit will comply strictly with the laws, ordinances, regulations, and any specific conditions that are now or may hereafter be in force by the State of California, Stanislaus County and the Department of Environmental Resources in the incorporated or unincorporated areas of Stanislaus County pertaining to the above mentioned business.





OFFICE OF TREASURER / TAX COLLECTOR

Gordon B. Ford
Treasurer / Tax Collector

P. O. Box 859, Modesto, CA 95353-0859

Phone: 209.525.6388 Fax: 209.525.7868

June 19, 2012

CENTRAL VALLEY RECYCLING
DONALD FRANCIS
524 S 9TH ST
MODESTO CA 95351

RE: Scrap Metal Dealer's License #933390

Dear DONALD FRANCIS:

Our records indicate that your Scrap Metal Dealer's License expires on 07/20/12.

Please complete and return the enclosed applications and include copies of your current driver's license and Weighmaster license along with the renewal fee of \$150.00 in the envelope provided. Please submit your renewal application by 07/01/12, to allow sufficient time (60 days per County Code) for processing the application.

If your application is not received timely, this could result your license lapsing. If you continue to operate your business without a current license, you will be in violation of County Code.

If you have any questions, please contact our office at (209) 525-6388.

Sincerely,

Gordon B. Ford
Treasurer - Tax Collector
Stanislaus County

GBF:dr

Enclosures

EXHIBIT

9





NEW BUSINESS LICENSE APPLICATION
 Planning & Community Development
 1010 10th Street, Suite 3400
 Modesto, CA 95354
 Ph: (209) 525-6330

BUSINESS LICENSE RENEWAL
 Treasurer/Tax Collector
 1010 10th Street, Suite 2500
 Modesto, CA 95354
 Ph: (209) 525-6388

FEE \$ 72 PENALTY \$ _____ TOTAL \$ _____ LICENSE NO: _____
 CASH CHECK NO. _____ CREDIT CARD EXPIRATION DATE: _____
 APN: 038-012-008 ZONE: C-2 PLANNING APPROVAL: _____ DATE: _____
 HOME OCCUPATION LEGAL NON CONFORMING USE PERMIT USE CODE: _____
 Revised 6/2010 For County Office Use Only

Type/description of Business: Recycling & scrap yard Date Business Opened 1973
 Descr of Activities: Buy mat'l from public & send the mat'l forward to Process
 Corporation Name (If applicable) Central Valley Recycling
(If owned by a corporation, please include Articles of Incorporation/LLC papers and list of officers or authorized agents)
 Business Name Central Valley Recycling
(A Fictitious Business Name Statement may be required - contact the County Clerk/Recorders Office for more info at (209) 525-5250)
 Business Address 524 S. 9th St City MODESTO State CA Zip 95351

Do you Own or Rent/Lease the property at the business location above (Please select one)
 Mailing Address SAME City _____ State _____ Zip _____
 Business Owner's Name Donald Francis Business Phone# (209) 544-1578

Business Owner's Home Address 2220 Millcreek Dr Modesto, Ca 95351
 Dr Lic/ID# _____ Emergency Contact Person: Donald Francis Emergency Phone# (209) _____
(COPY REQUIRED) (May be used by law enforcement for after hours emergencies)

Sole Proprietorship Partnership Corporation LLC (Please select one)

Co-owner/Partner Information: ***Copy of State ID required for each owner*** (Attach additional sheets if necessary)
 Name: Donald L Francis Phone # (209) 544 1578
 Address 2220 Millcreek Dr. City MODESTO State CA Zip 95351

Home Occupation Information: (Please read reverse side and sign below)
 Days of operation: _____ Hours: _____
 Type of commercial vehicle associated with business: _____
 Additional on-site structures used for business: _____

NOTE: The purpose of this license is to verify compliance with all applicable zoning codes. A business license does not authorize business activities or uses which are not otherwise authorized by the zoning for the property or a preexisting legal nonconforming use or authorize the business owner to conduct a business in violation of local state or federal laws. It is the business owner's responsibility to maintain compliance with all applicable zoning district rules and limitations. Any violation of said rules and limitations render this license void and may result in code enforcement action and/or fine. Any change in the type of business and/or intensity, expansion of a home occupation or legal nonconforming use must be reviewed by Stanislaus County Planning and Community Development Department for compliance.

I declare under penalty of perjury that I have fully read this application and, provided true statements under the penalty of perjury of the laws of the State of California. If applying for a home occupation, I also have fully read the rules and limitations on the reverse side of this application, and by my signature below agree to abide by all rules and limitations.

DK Business Owner's Signature 7/5/12 Date

I declare under penalty of perjury that I have fully read this application and grant permission and authority for the operation of the business at the above location
Donald L Francis Property Owner's Signature or copy of signed leased agreement 7/5/12 Date



Gordon B. Ford
Treasurer/Tax Collector

PO Box 859, Modesto CA 95353-0859
Phone: 209.525.6388 Fax: 209.525.7868

SCRAP METAL DEALER LICENSE RENEWAL APPLICATION

1) Name of owner: DONALD Francis 2) Age: 28

3) Residential address/es: 2220 Mill Creek Dr
MODESTO, CA 95351

4) Calif. DL. No. or ID No. & expiration date: _____
(Please attach a photocopy)

5) Name of Business: Central Valley Recycling

6) Address/es of Business: 524 S. 9th St
MODESTO, Ca 95351

7) Telephone No.: 209 544-1578

(If the business is a partnership, association or corporation, the application should be applied by the General Manager or by one having the authority of the General Manager by stating the true name of the business, date of organization, type of business, location of the principal place of business, the names and addresses of its officers. In case of co-partnership, please state the names and addresses of all the partners)

8) Have you conducted a similar business within the twelve months preceding the date of this application: Yes / No (Circle One)

If yes, please state the name and address of the place you conducted the business before: _____

9) Do you have a California Weighmaster License? Yes / No (Circle one)
(If yes, please attach a copy)
(If no, license will be denied.)

10) Have you been convicted of any felony, or in any Court, of a crime punishable by imprisonment for a term exceeding one year?
YES / NO (Circle one)

11) Have you read, understood and will you abide by the County Code No. C.S.994 (Chapter 6.74) of 2007 relating to Junk dealers and Scrap Metal recyclers?

YES NO (Circle one)

I acknowledge that I have read California Penal Code Section 496a.
I declare under penalty of perjury that the foregoing is true and correct.

Executed at Mooresville, California, on 7/5/12

Signature/s: [Signature]

Notes:

- 1. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk in excess of Ten dollars to any person except by paper draft or check.
- 2. The business hours should be between 7.00 am through 7.00 pm only. No exceptions.
- 3. The fee for new license is \$250 valid for one year from date of issuance. The annual renewal fee is \$150.00 and the denial appeal fee is \$50.00

(For Office Use only)

Date application received by Tax Collector: _____ Receipt No. _____

Approved

Disapproved

Signatures

Sheriff: _____ Date _____

Planning & C.D.D.: _____ Date _____

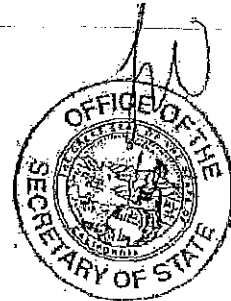
Env.Resources: _____ Date _____

Permit issued Number and date: _____

Issued by _____

EXHIBIT 10 (Pg 3)

State of California
Secretary of State



I, BRUCE McPHERSON, Secretary of State of the State of California, hereby certify:

That the attached transcript of 2 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAR 28 2006

BRUCE McPHERSON
Secretary of State

2801071

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAR 28 2006

ARTICLES OF INCORPORATION

OF

Central Valley Recycling

ONE: The name of this corporation is Central Valley Recycling.

TWO: The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

THREE: The name and address in this state of the corporation's initial agent for service of process is: Don Francis, 524 s Ninth Street Modesto, California 95351.

FOUR: This corporation is authorized to issue only one class of shares of stock, which shall be designated common stock. The total number of shares it is authorized to issue is 10,000 shares.

FIVE: The names and addresses of the persons who are appointed to act as the initial directors of this corporation are:

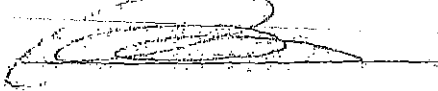
Name	Address
Byron McBroom	901 Country Club Circle Ripon, Ca 95366

SIX: The liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

SEVEN: The corporation is authorized to indemnify the directors and officers of the corporation to the fullest extent permissible under California law.

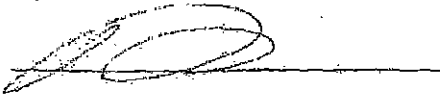
IN WITNESS WHEREOF, the undersigned, being all the persons named above as the initial directors, have executed these Articles of Incorporation.

Dated: 3-15-06



The undersigned, being all the persons named above as the initial directors, declare that they are the persons who executed the foregoing Articles of Incorporation, which execution is their act and deed.

Dated: 3-15-06





42-002(Rev 7/04)

DEPARTMENT OF FOOD AND AGRICULTURE
DIVISION OF MEASUREMENT STANDARDS

Remit fees to: PO Box 942872, Sacramento, CA 94271-2872
6790 Florin-Perkins Rd., Ste. 100, Sacramento, CA 95828-1812

Email: dms@cdfa.ca.gov Web Address: www.cdfa.ca.gov/dms/programs/wm/wm.html
Phone #: (916) 229-3040 Fax #: (916) 229-3055

WEIGHMASTER LICENSE

LICENSE NO. 012531

Weighmaster

CENTRAL VALLEY RECYCLING INC.
524 S. 9TH ST
MODESTO, CA 95351

Total Fees Remitted: \$315.00

Effective Date: 3/1/2012

License Year: 03/01/2012 - 03/01/2013

The Weighmaster is responsible to renew this license. (Division 5, Chapter 7, Section 12707, Business and Professions Code)

THIS LICENSE SHALL BE AVAILABLE TO WEIGHTS AND MEASURES OFFICIALS AT EACH WEIGHING LOCATION.
This license is not transferable. Any change in ownership requires a new license.

Principal Location

524 S. 9th St
Modesto, CA 95351
County: Stanislaus
(209) 544-1578

Only persons listed below may perform the functions of a Deputy Weighmaster for the licensed Weighmaster.
(Division 5, Chapter 7, Section 12703, Business and Professions Code)

For instructions on adding/deleting Deputies to your license, refer to the instruction sheet on our website.
<http://www.cdfa.ca.gov/dms/programs/wm/wm.html>

Deputy Weighmaster(s) - 12

CASTELLANOS, ALFONSO	FARIAS, MODESTA	FORREST, LAURA
FRANCIS, DON	FRANCIS, RICHARD	MANZO, GERALD
MARTINEZ, DAVID	MURILLO, JESUS	ORTIZ, GABRIEL
SANCHEZ, HUGO	STOTTLEMEYER, RONNIE	TEAGUE, GLENDA

EXHIBIT 10 (pg 7)

Daniel Perez - Central Valley Recycling

From: Rachel Wyse
To: Forrest Bryant; Jegan Raja
Date: 7/12/2012 12:24 PM
Subject: Central Valley Recycling
CC: Angela Freitas

Hello:

Thank you for sending the applicants to our office without renewing their application. We are currently researching their business and are in possession of the application(s) and check(s) for the business license and the scrap metal license.

I would like to request that you please not assess a late fee on this application while we research this business.

Thank you,

Rachel Wyse
Assistant Planner
Stanislaus County Planning
and Community Development
1010 10th St., Ste. 3400
Modesto, CA 95354
209.525.6330
wyser@stancounty.com

--- -- Let Us Know How We Are Doing --- --

Please take a moment and complete the Customer Satisfaction Survey by clicking on the following link:

<http://www.stancounty.com/customercenter/index.shtm>

EXHIBIT 10 (pg 8)





DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

1010 10th Street, Suite 3400, Modesto, CA 95354
Phone: 209.525.6330 Fax: 209.525.5911

September 5, 2012

CERTIFIED MAIL

Donald Francis
Central Valley Recycling
2220 Millcreek Drive
Modesto, CA 95351

**SUBJECT: CENTRAL VALLEY RECYCLING – BUSINESS LICENSE RENEWAL AND
SCRAP METAL DEALER LICENSE RENEWAL APPLICATIONS – 524/526 9TH
STREET, MODESTO.**

Dear Mr. Francis:

The Planning and Community Development Department (Planning) has reviewed the subject renewal applications and determined that the County cannot approve the applications. The subject business is located on property in the C-2 (General Commercial) zoning district, which does not allow the use of the property for scrap metal recycling. It is our understanding, however, that there are two types of recycling operations occurring on the subject property. One type is California Redemption Value (CRV) recycling that occurs within the building located on the west side of the property (524 S. 9th Street). The second type is the scrap metal recycling that occurs outdoors on the east side of the property (526 S. 9th Street). The CRV recycling is a permitted use in the C-2 zoning district and may be issued a business license.

In 2009, Planning approved a business license for "recycling and scrap" with business activities identified as "buying cans, plastic, glass and scrap metal" with the understanding that the business would operate in compliance with Stanislaus County Code Section 21.08.020(B)(1) with respect to the height of stored or piled material and installation of a chain link fence along Bystrum Road with slates designed to reduce visibility to 98% was required. The business license for the scrap metal recycling was allowed in accordance with County Code Section 21.56.020(E) which identifies permitted uses in the C-2 zoning district to include "other uses which in the opinion of the director of planning and community development are similar in character and purpose to uses enumerated in this section."

While the scrap metal recycling operation is similar to automobile wreacking yards operating along the South 9th Street corridor, the wreacking yards are permitted as legal nonconforming uses. The subject scrap metal recycling operation was not being conducted on the subject property until 2009 and, as such, has no legal nonconforming status. Since the scrap metal recycling business began operating in 2009, Stanislaus County has received numerous complaints from the surrounding residential properties relating to noise and air pollution from the on-site movement of scrap metal. Upon review, Stanislaus County has determined that the operation of the scrap metal recycling business is not in character with permitted C-2 uses and, as such, cannot approve renewal of the subject licenses.

Donald Francis
Central Valley Recycling
September 5, 2012
Page 2

If you wish to contest staff's determination that the scrap metal business is not a permitted use in the C-2 zoning district, you may submit a written appeal request outlining the reasons for your objections and attaching all supporting documents. Stanislaus County Code Section 21.112.020(B) requires an appeal of a staff determination be filed within 10 days of the notice of the decision being sent and an appeal fee of \$628.00 must be received as part of the request. The appeal will be presented to the Stanislaus County Planning Commission for consideration.

Enclosed with this letter are your renewal applications and associated checks for the applicable renewal fees. As discussed above, a business license for only the CRV recycling may be approved; however, a new application reflecting only CRV recycling must be submitted.

This letter is your notice that operation of the scrap metal recycling operation must be ceased. If you continue this use beyond September 30, 2012, the County will take appropriate legal action. Please do not hesitate to contact me if you have any questions regarding this letter.

Sincerely,



Angela Freitas
Planning and Community Development Director

cc: Property Owner, Stanley A. & Joyce O. Goblirsch, P.O. Box 1010, Ceres, CA 95307
Jami Aggers, DER - Code Enforcement
Supervisor Jim DeMartini





STANISLAUS COUNTY
DEPARTMENT OF ENVIRONMENTAL RESOURCES
3800 Comucopia Way, Suite C, Modesto, CA 95358

SUMMARY OF RETURN TO COMPLIANCE REPORT
OFFICIAL NOTICE

Phone: (209) 525-6700
Fax: (209) 525-6774

Owner: Don Francis Operator: "
Facility: Central Valley Recycling Address: 524 S. Ninth St - Modesto, CA
Phone-Number: _____ EPA #: _____ Date: 5/3/02
Purpose: Complaint odor Inspection: Initial Follow-up Routine Complaint X

Met w/ Don Francis -
All vehicles are received by or from Auto wreckers - all fluid has been drained
from vehicles at the wrecking yard. Vehicles inspected and checked for any liquids
in vehicles after OK placed on pile and put into truck. Metal piles
on concrete slab ≈ 1/3 of the property, n Vehicles have junk titles when they
receive them.

- American Valley - took waste oil
no evidence of any improper disposal, spills. Every effort is made to
be in compliance.

- Add - 1,000 gallon waste oil tank. to AMER Red Devil

- The only odor noticed was the propane tank, when filling. Air Board
was that.

- The facility has made every effort to comply with regulations, neighborhood.

- No further action is required at this time.

All Dirt areas were wetted during the inspection.

This facility X is is not in compliance with all regulatory and statutory requirements. Deficiencies listed must be corrected within 0 days.
Stanislaus County Ordinance requires a charge of \$ 0 per reinspection of your facility if violations are not corrected by the noted date.

SENT TO ENTER GIVEN BY:
INSPECTOR: Jonathan Colby RECEIVED BY: Donald Francis af
(Print) (Signature)

From: Kacey Smith
To: Freitas, Angela
CC: AGGERS, JAMI
Date: 11/29/2012 9:29 AM
Subject: Re: 9th Street Recycle

Angela & Jami, I shared your(Angela) email with **CONFIDENTIAL** and she is now requesting a meeting to discuss. Jim has agreed to meet with her and would like you both to join. What is your availability for 12/3, 12/10 or 12/14 at 4:00pm.

THANK YOU, Kacey

Kacey Smith
Field Representative for
Supervisor Terry Withrow, District 3 209-525-6560
Supervisor Dick Monteith, District 4 209-525-4445
Supervisor Jim DeMartini, District 5 209-525-4470
smithk@stancounty.com

>>> Angela Freitas 11/26/2012 3:30 PM >>>
Yes. Feel free to forward the e-mail.

>>> Kacey Smith 11/26/2012 3:02 PM >>>
Hello, Thank you.. May I forward your email to **CONFIDENTIAL**?
Thanks, Kacey

Kacey Smith
Field Representative for
Supervisor Terry Withrow, District 3 209-525-6560
Supervisor Dick Monteith, District 4 209-525-4445
Supervisor Jim DeMartini, District 5 209-525-4470
smithk@stancounty.com

>>> Angela Freitas 11/26/2012 12:32 PM >>>
Next Steps:

1) Planning will be coordinating a meeting with the City of Ceres to discuss the City's thoughts on the County moving forward with a discretionary permit to allow the scrap metal recycling to continue. The meeting does not mean that the County is supporting any type of permit, but rather an opportunity to see if the City will object.

2) Planning will be working with the current operator to get more information on how they historically handled non-CRV items in the past. There is some permitting history on the 9th street portion of the property.

Once we complete steps 1 and 2 we will reassess the options available.

>>> Kacey Smith 11/26/2012 10:58 AM >>>
Hello Angela, I need an update as to what was decided at the meeting on 11/20/12 regarding the 9th Street recycle business. **CONFIDENTIAL** called me on 11/21/12 and wanted an update. Thanks, Kacey

Kacey Smith

EXHIBIT 12 (pg 2)

From: Angela Freitas
To: John Anderson; Mark Niskanen
CC: JAMI AGGERS
Date: 12/21/2012 10:01 AM
Subject: Central Valley Recycling

John & Mark:

Below is the information you requested regarding the various complaints received by County Code Enforcement regarding the subject operation:

1. 524 S. 9th Street, Modesto:
 - A. Complaint #1077618; received on 10/9/12 - Complaint regarding odor coming from the property/recycling junk cars on premises;
 - B. Complaint #1021311; received on 8/2/12 - Complaint regarding owners of the premises are taking cars apart and a very bad odor is coming from the premises;
 - C. Complaint #970138; received on 6/1/12 - Complaint regarding oil on the ground and a strong diesel odor coming from the premises; and
 - D. Complaint #696726; received on 7/18/11 - Complaint regarding strong odor of chemicals coming from the premises, a large amount of scrap metal is being move about the back of the premises, and the persons working on the premises are beginning too early.

2. 526 S. 9th Street, Modesto:
 - A. Complaint #114681; received on 10/19/12 - Complaint regarding the property not properly zoned to conduct recycling business on the east side of the owner's property and said business must cease.

If you have any question regarding the information provided, please contact Jami Aggers, Director of the Department of Environmental Resources. Planning is still review the properties land use permit history.

From: **CONFIDENTIAL INFORMATION REDACTED**
To: "DemartiniJ@StanCounty.com" <DemartiniJ@StanCounty.com>, "ObrienW@stanco...
CC: "ninoM@stancounty.com" <ninoM@stancounty.com>, "mendezr@stancounty.com" ...
Date: 2/6/2013 1:34 PM
Subject: What a view from my house
Attachments: Bystrum view 02.06.2013.jpg

Board of Supervisors Stanislaus County, Angela Frietas, Raul Mendez and Monica Nino:

Two years ago I brought the Central Valley recycling company to your attention nothing happened. Last year I went through an extensive process to search out the legality of what they are doing as "scrap metal recycling". After several calls to local county departments, State of California departments, and federal agency there was one thing I was certain of; this business should not be located in such close proximity to a residential area. By folly they were originally granted a permit to do business in an area that is not zoned for industrial businesses. This area is a mixed commercial zoning that backs up to a residential area. This does not include the most recent offense of accepting a stolen vehicle for scrapping without proper documentation hence the stolen vehicle citation from the California Highway Patrol.

This company has been operating without a county business license since 07/19/2012. How is this remotely legal? They had to know their days were number when the renewal license was not accepted. They have continued to operate "business as usual" ignoring notifications and purportedly trying to work with the county by hiring an independent company to assist them with the process. To what end does our community have to go to get resolution to this continual attack on the senses? And, it is not just visual, the constant noise, the dust and worst of all the smell that emanates as a direct result from the vehicles that come in there with lingering fluids of a combustible nature. Oh and that brings me to a situation that occurred about two weeks ago. An explosion was heard and a huge fireball rose up from their site. They worked quickly to contain it so the Ceres Fire department would not be called and this has happened more than once.

Let me ask you this; would you like to see from your window? Would you like to have your elderly parents not be able to rest soundly because of the noise? Or better yet, how about not be able to be outside and enjoy your yard because of the noxious smell, the dust all over your outside furniture, and the noise and ground shaking. My neighborhood might not be the best in town, but there are those of us who still take pride in our homes! My parents have owned their property since 1948 and I would like to see the remainder of their time there to be one of enjoyment and peace; and not have to stay indoors because of this nuisance. As for the rest of the people who live there and afraid to be heard, I am speaking for them! I fully intend to take this to then next level by contacting the Modesto Bee, CRLA, LCR, Call Curtis, KCRA channel 3 and anyone else who will listen. Quite frankly, I am tired of calling every two weeks to be told it takes time. Tell me how much time would you allow if it was in your front yard?

Please feel free to contact me at **CONFIDENTIAL**
CONFIDENTIAL INFORMATION REDACTED. I await your prompt response; if I do not hear back from any or all of you, I will be contacting the aforementioned by Friday, February 15, 2013.

CONFIDENTIAL
CONFIDENTIAL INFORMATION REDACTED

EXHIBIT 12 (pg 4)

NOTICE OF CONFIDENTIALITY:

The information contained in this transmission is confidential and may be privileged and/or contain confidential health information that is legally protected from disclosure by state and federal law, including the Health Insurance Portability and Accountability Act of 1996 and related regulations. This information is intended only for the use of the individual or organization to whom it is addressed. Use, disclosure, distribution or copying of documents transmitted to you in error is strictly prohibited. If you have received this message in error, please notify the sender immediately and destroy the original message and all copies.

CONF

EXHIBIT 12 (pg 5)

STORM WATER POLLUTION PREVENTION PROGRAM Request for Investigation of a Complaint



Mailing: Stanislaus County Public Works, Storm Water Division
1716 Morgan Road, Modesto, CA 95359
Phone: (209) 525-4130 | Fax: (209) 525-4188

Date: Dec 7, 2012

Taken by: Michael Luevano

Complainant: Storm Water Compliance Officer

Response Requested: Yes No

Phone: 209-544-1578

Email Address: storm@stancounty.com

Subject Address: 524 South 9th Street

Cross Street: Hosmer Avenue

APN# 038-012-008

Storm Water Pollution Complaint Activity Details (Specific As Possible)

Business operations at the above parcel site is in violation of the County Code 14.14.150 due to poor housekeeping and best management practices related to sediment control and tracking of dirt/debris from project site onto County road right-of-way along 9th Street.

Property Owner: GOBLIRSCH STANLEY A and DON FRANCIS and RICHARD FRANCIS

Address: 524 South 9th Street City: Modesto State: CA Zip: 95351

BELOW TO BE FILLED OUT BY INVESTIGATING FIELD INSPECTOR

Field Investigation Results:

Date: Dec 7, 2012 Inspector: M. Luevano Time: _____ Photos: Yes No

Call Back Complainant: Yes No

Inspection Results Inputted: Yes No

Contacted State Board: Yes No

Comments/Notes:

Implement good housekeeping and best management practices to control sediment tracking from project site onto County road right-of-way.

Resolution:

Resolution Pending.

Referrals: Planning Department of Environmental Resources
 Zoning Stanislaus Consolidated Fire Department

Case Closed: Yes No

Resolved Inspector Michael Luevano

Complaint Case

SWMP-93

EXHIBIT ~~12~~ 12 (16)



Department of Planning and Community Development
Building Permit Division

1010 10th St, Suite 3400, Modesto, CA 95354-0847

Phone: 209.525.6557

Fax: 209.525.7759

April 5, 2013

CERTIFIED MAIL

Stanley & Joyce Goblirsch
P.O. Box 1010
Ceres, CA 95307

Subject: Construction of an 84 foot long 10 foot high Concrete wall located on the eastern property line of parcel #038-012-009 without a permit.
Located at: 524 S 9th street
APN #: 038-012-008 and 038-012-009

Dear Sir or Madam:

On April 4, 2013, a representative from our department inspected the subject structure. During the inspection it was noted that there was not a building permit posted on the job. A review of our records reveals that a building permit has not been issued by this department for the above address.

Pursuant to Section 114 and 115 of the California Building Code, a "Stop Work Order" was left on the job site. Section 105 of the California Building Code requires a building permit for such work in Stanislaus County.

Please submit three (3) sets of plans, a site plan, a copy of the property owner's grant deed and obtain the required building permit prior to continuing any further work on the subject job. Also, obtain a letter from your school district regarding the Developer's Fee ("exempt" or "subject to").

Please be advised that failure to contact this office within fifteen (15) days of receiving this letter may be cause to seek further action. Your immediate cooperation in this matter is appreciated. If you have any questions please feel free to contact our office Monday through Friday between 8:00 a.m. and 5:00 p.m. at (209) 525-6557.

Sincerely,



Steve Treat
Chief Building Official

CC: Central Valley Recycling (524 S 9th street, Modesto, CA 95351),
File, Planning and Community Development

CMP2013-0042

Gov Outreach # 1271217

EXHIBIT 12 (p.7)

NOTICE TO BUILDER

LOCATION

524 9TH ST

OWNER

DATE

7/24/13

A SEARCH OF OUR FILES INDICATE THAT THE PROPER PERMITS HAVE NOT BEEN ISSUED FOR THE WORK BEING PERFORMED.

1. Pursuant to Section 106.1 of the Uniform Building Code, you must obtain a Building Permit to erect, construct, enlarge, alter, move, improve, remove, convert or demolish a structure. Therefore a permit is required for your project CONSTRUCTION OF 8' x 10' HIGH CONCRETE WALL CONSTRUCTION WITH 2' x 6' CONCRETE BUTTS, LOCATED ON EAST PL
2. Pursuant to Section 104.2.4 of the Uniform Building Code, a Stop Work Order is being placed on your project and this will be in effect until a building permit is obtained.
3. Come in to our office within 10 days of this notice and start the permit process to avoid further action. The following items will be required:
 - Scaled Site Plan (3 Ea.)
 - Dimensioned Floor Plan (3 Ea.)
 - Foundation Plan (2 Ea.)
 - Roof Framing Plan (2 Ea.)
 - Framing Details (2 Ea.)
 - Truss Calculations (2 Ea.)
 - Structural Design with Engineering Calculations (2 Ea.)
 - Heating and Air Calculations
 - Copy of the Grant Deed
 - Other
4. Please call our office for further assistance.

Please notify the Stanislaus County Building Department, 1010 10th Street Suite 3400, Modesto CA. Phone 525-7550 for re-inspection or for additional information 525-7589 between 7:00 am and 8:00 am Monday through Friday. 525-6557

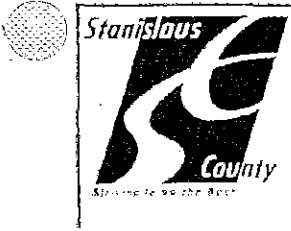
Inspector

DEVSVC5-116

CMP2013-0042

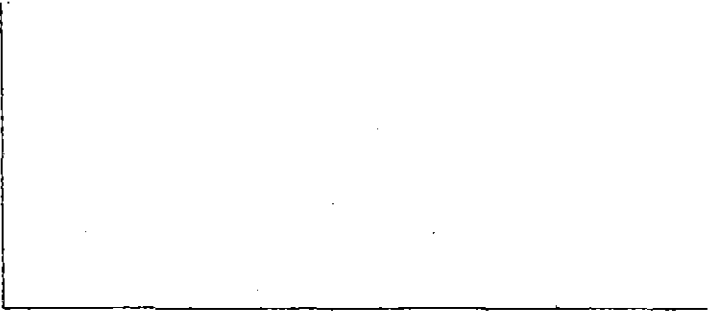
EXHIBIT 12 (p.8)

DEPARTMENT OF PUBLIC WORKS - STORM WATER DIVISION



Recording Requested By:
and For The Benefit Of:
and When Recorded Mail To:

County of Stanislaus
Department of Public Works
Attn: Encroachment Division
1010 Tenth St, Ste 3500
Modesto, CA 95354



Space Above For Recorder's Use Only

NOTICE AND ORDER TO ABATE / NOTICE OF VIOLATION

NOV ISSUE DATE: 6/4/2013

<p>TO: GOBLIRSCH STANLEY A and DON FRANCIS 524 South 9th Street Modesto, CA 95354</p>	<p>RE: NOV038012008-02 APN: 038-012-008 APN Site: 524 South 9th Street APN City/Zip: Modesto, CA 95354</p>
--	---

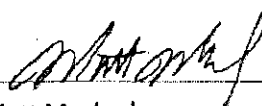
NOTICE IS HEREBY GIVEN, pursuant to Stanislaus County Code § 2.92.030 and §14.14, that conditions described on Attachment A which, by this reference is made a part hereof, exist on the above-referenced real property in the County of Stanislaus, State of California, which conditions are in violation of Stanislaus County Code. These conditions exist to an extent that endangers, the life, health, property, safety or welfare of the public and, as such, constitute a nuisance under Stanislaus County Code § 2.92.010 and §14.14.

YOU ARE HEREBY ORDERED to commence the abatement of the aforementioned nuisance and to thereafter diligently prosecute and complete such abatement within the time frames specified on Attachment A. If corrective action is not undertaken and diligently pursued within the time allotted, then the responsible County department may (1) impose an administrative penalty (§ 2.92.060); (2) commence criminal prosecution (§ 2.92.080; § 14.14.150); and/or (3) initiate any other remedy available under the law (§ 2.92.100; § 14.14.160).

In the event that abatement proceedings are initiated, all costs incurred by the County to abate the nuisance will be charged to the owner of the property and shall become a lien against the property under Government Code 25845. In the event that an administrative citation is issued, the fine or penalty imposed, as confirmed by the Board of Supervisors, shall become a lien against the property under Stanislaus County Code § 2.92.060 E. For further information concerning this Notice, please contact the Department of Public Works, 1010 Tenth St, Suite 3500, Modesto, California 95354 or call (209) 525-6550.

APPROVED BY: 

PRINTED NAME: David Leamon
TITLE: Senior Civil Engineer, RCE/QSD

ENFORCEMENT OFFICIAL: 

PRINTED NAME: Matt Machado
TITLE: Director of Public Works, RCE, LRP

EXHIBIT 12 (0.9)

NOTICE AND ORDER TO ABATE / NOTICE OF VIOLATION

Attachment "A"

NOV ISSUE DATE: 6/4/2013

RE: NOV038012008-02
APN: 038-012-008
APN Site: 524 South 9th Street
APN City/Zip: Modesto, CA 95354

Inspection of the above reference property revealed the following violations of Stanislaus County Code §2.92.010 and § 14.14:

Code Violation:	Code Section Violation Description	Compliance Date:
14.14.120.A	Reduction of Pollutants in Stormwater, Business-Related Activities	05-Jul-13
14.14.120.E	Reduction of Pollutants in Stormwater, Compliance with BMPs	05-Jul-13
14.150.B	Violations deemed a Public Nuisance	05-Jul-13

Required Corrective Action:

Any person engaged in activities that may result in pollutants entering the stormwater conveyance system shall, to the maximum extent practicable, undertake the measures set forth to reduce the risk of non-stormwater discharge and/or pollutant discharge using Best Management Practices (BMPs).

Corrective Actions Required:

1. Install and maintain proper BMPs for onsite business operations to prevent road sediment tracking.
2. Perform street sweeping operations to remove road sediment tracking.
3. Clean storm drain catch basins that may have been impacted by road sediment tracking.

The above corrective actions must be completed by the compliance date date shown above or before the next rain storm event, which ever may occur first. Failure to take the corrective actions as noted may lead to an Administrative Civil Citation per Section 14.14.150 c.3.

Enclosures: Stanislaus County Code Sections

EXHIBIT 12 (p.10)

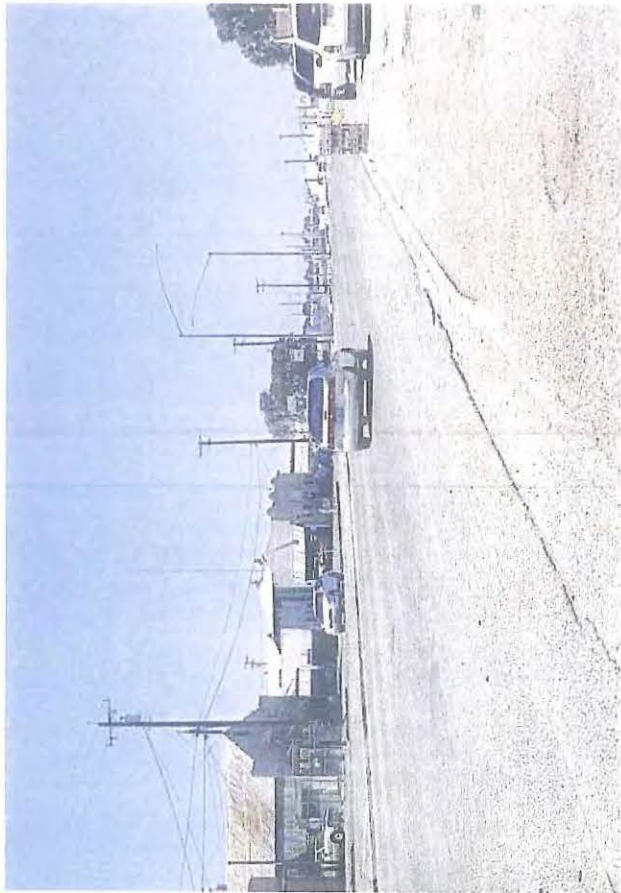


EXHIBIT 12 (p. 11)



Environmental Noise Analysis

Central Valley Recycle Facility

Modesto (Stanislaus County), California

BAC Job # 2013-003

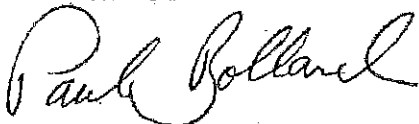
Prepared For:

Central Valley Recycling

Attn: Mr. Richard Francis
524 S. 9th Street
Modesto, CA. 95351

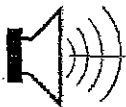
Prepared By:

Bollard Acoustical Consultants, Inc.



Paul Bollard, President

January 30, 2013



BOLLARD

Acoustical Consultants

EXHIBIT 13 (pg 1)

Introduction

Central Valley Recycling (CVR) is a full scale recycling center located at 524 South 9th Street in Modesto, Stanislaus County, California. The project site is located in an industrial/commercial area adjacent to a truck bed cover retailer to the north, an auto body and trucking school to the south, and single-family homes to the east (on opposite side of Bystrum Road).

Due to concerns expressed by the residential neighbors to the east regarding noise generated at the facility, CVR retained Bollard Acoustical Consultants (BAC), to conduct noise measurements of the facility during normal operations. This analysis has been prepared to specifically assess compliance of those measured noise levels with Stanislaus County noise exposure standards at the existing residences to the east.

Figure 1 shows an aerial photograph of the project vicinity, including the CVR facility, nearest residences, and BAC noise monitoring positions.

Background on Noise and Acoustical Terminology

Noise is often described as unwanted sound. Sound is defined as any pressure variation in air that the human ear can detect. If the pressure variations occur frequently enough (at least 20 times per second), they can be heard and are called sound. The number of pressure variations per second is called the frequency of sound, and is expressed as cycles per second, called Hertz (Hz).

Measuring sound directly in terms of pressure would require a very large and awkward range of numbers. To avoid this, the decibel scale was devised. The decibel scale uses the hearing threshold (20 micropascals of pressure), as a point of reference, defined as 0 dB. Other sound pressures are then compared to the reference pressure, and the logarithm is taken to keep the numbers in a practical range. The decibel scale allows a million-fold increase in pressure to be expressed as 120 dB. Another useful aspect of the decibel scale is that changes in decibel levels correspond closely to human perception of relative loudness. Figure 2 illustrates common noise levels associated with various sources.

The perceived loudness of sound is dependent upon many factors, including sound pressure level and frequency content. However, within the usual range of environmental noise levels, perception of loudness is relatively predictable, and can be approximated by weighing the frequency response of a sound level meter by means of the standardized A-weighting network. There is a strong correlation between A-weighted sound levels (expressed as dBA) and community response to noise. For this reason, the A-weighted sound level has become the standard tool of environmental noise assessment. All noise levels reported in this section are in terms of A-weighted levels. Please see Appendix A for definitions of acoustical terminology used in this report.

Figure 1

Central Valley Recycle Facility - Modesto (Stanislaus County), California
Project Area, Nearest Residences, and Noise Measurement Sites

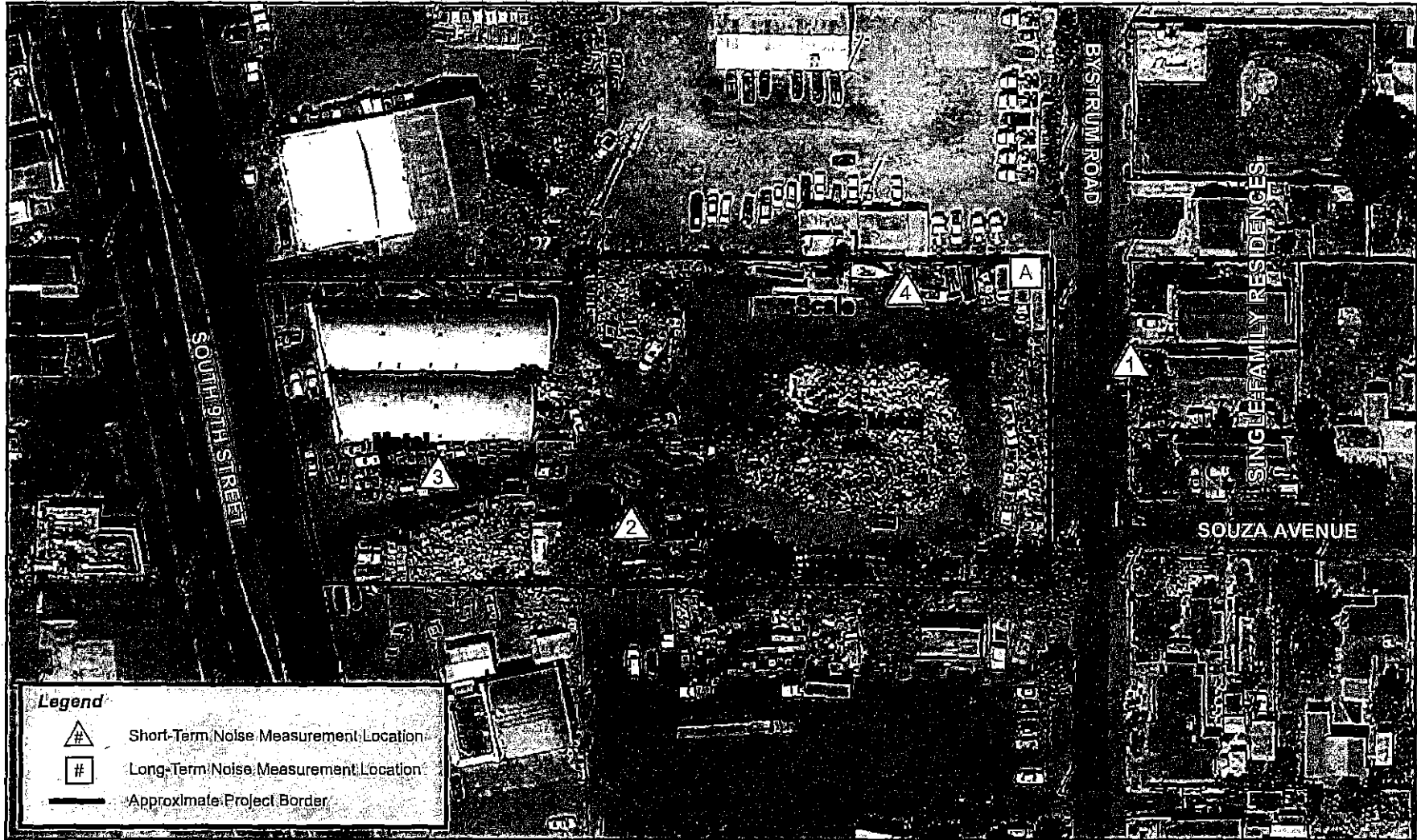


EXHIBIT 13 (09/3)

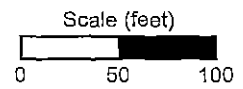
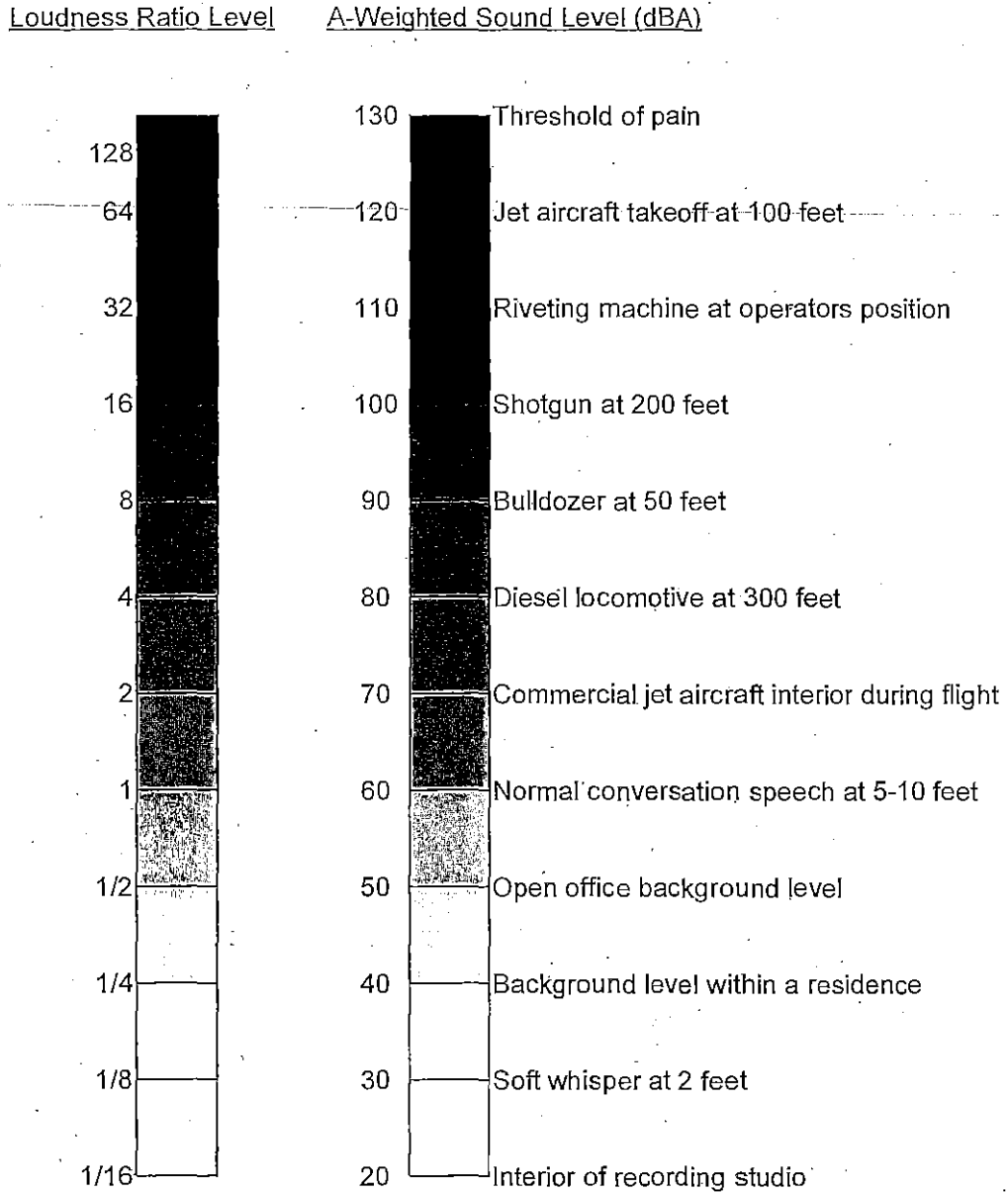


Figure 2
Typical A-Weighted Sound Levels of Common Noise Sources



Criteria for Acceptable Noise Exposure

Stanislaus County Code

The Noise Control Section of the Stanislaus County Code establishes acceptable noise level criteria for non-transportation noise sources, such as the Central Valley Recycling Facility operations. Section 10.46.050 of the Stanislaus County Code provides sound limits for sensitive receptors in Stanislaus County. The specific language of that provision is provided below:

10.46.50 Exterior Noise Level Standards

- A. It is unlawful for any person at any location within the unincorporated area of the county to create to create any noise or to allow the creation of any noise which causes the exterior noise level when measured at any property situated in either the incorporated or unincorporated area of the county to exceed the noise level standards set forth below:
 - 1. Unless otherwise provided herein, the following exterior noise level standards shall apply to all properties within the designated noise zone:

Table 1
Exterior Noise Level Standards
Stanislaus County Code – Noise Control Section

Designated Noise Zone	Maximum A-Weighted Sound Level as Measured on a Sound Level Meter (Lmax)	
	Daytime (7 a.m. - 10 p.m.)	Nighttime (10 p.m. - 7 a.m.)
Noise Sensitive	45	45
Residential	50	45
Commercial	60	55
Industrial	75	75

Source: Stanislaus County Code

2. Exterior noise levels shall not exceed the following cumulative duration allowance standards:

Table 2
Cumulative Duration Allowance Standards
Stanislaus County Code – Noise Control Section

Designated Noise Zone	Allowance Decibels
Equal to or greater than 30 minutes per hour	Table 1 plus 0 dB
Equal to or greater than 15 minutes per hour	Table 1 plus 5 dB
Equal to or greater than 5 minutes per hour	Table 1 plus 10 dB
Equal to or greater than 1 minutes per hour	Table 1 plus 15 dB
Less than 1 minute per hour	Table 1 plus 20 dB

Source: Stanislaus County Code

3. Pure Tone Noise, Speech and Music. The exterior noise level standards set forth in Table 1 shall be reduced by five dB(A) for pure tone noises, noises consisting primarily of speech or music, or reoccurring impulsive noise.
4. In the event the measured ambient noise level exceeds the applicable noise level standards above, the ambient noise level shall become the applicable exterior noise level standard.

Because the operations at CVR are limited to daytime hours, and because the receiving use is residential, the noise standards which would be most applicable at the residential property line are as follows:

- 50 dB L₅₀ (Median Noise Level)
- 70 dB L_{max} (Maximum Noise Level)

Although the Table 2 standards provide for noise-generated during different durations, the median and maximum noise level standards identified above effectively bracket all noise generated at the CVR facility. As a result, satisfaction with these "boundary" standards would likely ensure satisfaction with the 1-minute, 5-minute, and 15-minute standards as well.

Existing Ambient Noise Environment

The nearest noise-sensitive receivers to the project site are the existing residences located on the east side of Bystrum Road, as identified on Figure 1. The noise environment at these nearest residences was observed by BAC staff to be defined primarily by operations at CVR and local traffic on Bystrum Road. More distant traffic on South 9th street and periodic aircraft departures also contributed to the observed ambient noise environment at these residences, but to a lesser extent.

To generally quantify existing ambient noise levels in the project vicinity, Bollard Acoustical Consultants, Inc. conducted a long-term (24-hour) ambient noise level measurement in the northeast corner of the project site on January 18-21, 2013. The noise measurement location is depicted in Figure 1 as Site "A". A photograph of the long-term noise measurement location is provided in Figure 2. The long-term monitoring site was selected because it provided a complete view of the CVR facility operations and was approximately the same distance from Bystrum Road as the existing residences to the east.

The long-measurement results are provided in Table 3. Detailed noise measurement results can be seen in Appendices B and C. Noise measurement equipment included a Larson-Davis Laboratories (LDL) Model 820 precision integrating sound level meter equipped with a LDL Model 2560 1/2" microphone. The system was calibrated in the field before use using a LDL CAL200 acoustical calibrator.

Figure 3 – Continuous Noise Measurement Site Photo

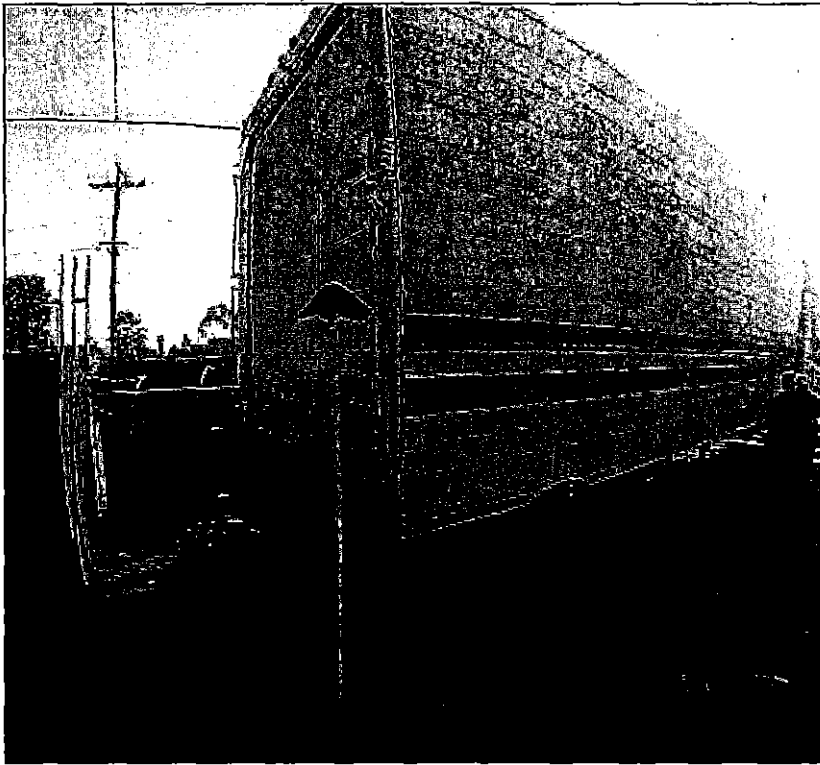


Table 3
Summary of Long-Term Noise Measurement Results at Site A
Central Valley Recycling Facility – Merced (Stanislaus County), California

Date	L _{dn}	Measured Noise Levels, dBA					
		Daytime (7 a.m. - 10 p.m.)			Nighttime (10 p.m. - 7 a.m.)		
		L _{eq}	L ₅₀	L _{max}	L _{eq}	L ₅₀	L _{max}
Friday 1/18/13	67	64	59	76-87	60	56	73-81
Saturday 1/19/13	65	60	56	73-83	58	55	73-83
Sunday 1/20/13	63	57	50	72-83	57	53	72-82
Monday 1/21/13	65	61	57	72-92	58	55	69-78

Notes: Bollard Acoustical Consultants, Inc.

It should be noted that the noise level data provided in Table 3 includes noise generated by both the CVR facility and Bystrum Road traffic. As such, the data does not directly reflect the noise generation of the CVR facility alone. It should also be noted that the nearest residential property lines to the east are located approximately 60 feet further from the CVR facility noise sources than the long-term noise measurement microphone. As a result, CVR-facility generated noise levels would be approximately 5 dB lower than those measured at the long-term site.

Because the CVR facility was in normal operation on Friday, Saturday and Monday, and closed on Sunday, the Table 3 data indicate that daytime median noise levels were approximately 5-9 dB higher on days when the facility was in operation, with typical maximum noise levels also being 4-9 dB higher on days when the facility was in operation. Because the long-term noise meter operated remotely (without an observer present), it is not known if the maximum noise levels reported in Table 3 and Appendices B and C were generated by CVR operations or local traffic on Bystrum Road. Nonetheless, the Table 3 data clearly indicate that noise levels were considerably higher on days the facility was in operation versus the Sunday period when the facility was closed.

A more focused evaluation of the noise-generation specific to the CVR facility is provided in the next section, but if a -5 dB offset is applied to the Table 3 daytime noise level data to account for the additional distance from the CVR noise sources to the existing residential property line, the measured L₅₀ noise levels would have exceeded the Stanislaus County 50 dB L₅₀ daytime noise level standards by 2-4 dB on the days the facility was in operation. Due to the presence of traffic on Bystrum Road, a similar relationship cannot be applied to the measured maximum noise level data shown in Table 3. CVR-specific maximum noise levels are discussed in the next section.

Evaluation of Specific CVR Facility Noise Generation

The major noise sources associated with the CVR operations include the following:

- Excavator
- Rotating Shear
- Baler
- Metal Cutting Saw
- Truck Loading

To specifically quantify the noise generation of the existing CVR operations, including the noise sources identified above, BAC conducted a series of short-term noise level measurements both on the CVR grounds and at the residential property line to the east. The short-term measurements were conducted on January 17, 2013, at the locations identified in Figure 1 using similar equipment as that described for the long-term noise measurement survey.

Short-term noise measurement Site 1 was located at the property line of the nearest existing residence to the east. Photographs of that noise measurement location are shown in Figure 4. Site 1 was monitored from approximately 11 am to 1 pm, a period of two hours. During that monitoring period, BAC staff remained with the noise meter to conduct observations and to pause the meter whenever a car approached the monitoring site on Bystrum Road to prevent contamination of the noise measurement results by sources of noise other than CVR operations.

Figures 4a & 4b – Short Term Noise Measurement Site 1



Short-term noise monitoring Sites 2, 3 and 4 were located near the Baler, Metal Saw, and Scrap Metal Pile to allow specific quantification of these noise sources. Figure 5 shows photographs of the Baler and Scrap Pile Area Operations. The results of the short-term noise measurement surveys at Sites 1-4 are provided in Table 4.

Figure 5a – Photograph of Baler in Operation



Figure 5b – Photograph of Scrap Pile Activity, Including Excavator



Figure 5c – Photograph of Excavator Loading Transfer Truck



Table 4
Summary of Short-Term Noise Measurement Results
Central Valley Recycling Facility – Merced (Stanislaus County), California

Measured Noise Levels, dBA

Site	Noise Source	Distance (ft)	L ₅₀	L _{max}	Notes
1	All	50' from P/L	59	76	Idling engines caused elevated L ₅₀ .
2	Baler	50' from baler	70	75	Baler operates infrequently and for short duration
3	Metal Saw	25' from saw	80	85	Saw operates infrequently and for short duration
4	Excavator & Shear	50'-100' from Equipment	65	85	Most significant noise sources due to frequency and duration of operations.

Notes: Bollard Acoustical Consultants, Inc.

Analysis & Recommendations

The Table 4 data indicate that the baler and metal saw generated the highest L₅₀ values while in use. However, given the relatively infrequent use and short durations of both baler and metal saw operations, and the increased distance between those sources and the nearest residences to the east, the hourly L₅₀ associated with the baler and saw usage are predicted to be satisfactory relative to County noise standards at the nearest residences to the east.

BAC staff observations indicated that use of the excavator and shear resulted in the highest measured noise levels at the property line of the nearest residences to the east. Examination of the Table 4 short-term noise monitoring data indicates that noise generated during typical operations of the CVR facility exceeded the County's exterior noise standards by approximately 6 dB L_{max} and 9 dB L₅₀ at the property line of the existing residences to the east. These exceedances were observed to be due to excavator and shear usage. To reduce the measured noise levels to a state of compliance with Stanislaus County noise standards at those nearest residences, the following specific measures are recommended:

1. A solid barrier should be erected near the eastern project site boundary to provide partial shielding of shear and excavator noise at the residences to the immediate east of the project site. The barrier could consist of a series of trailers placed end to end (similar to the existing trailer located in the northeast corner of the site – see Figure 3), provided no substantial gaps existed between the trailers. As an alternative, concrete blocks could be stacked to a height comparable to the top of

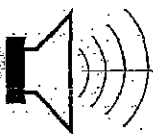
the existing trailer height to form a solid barrier. A permanent masonry noise barrier at the eastern site boundary (replacing the existing fence) is not recommended as it would likely attract graffiti.

2. The "tin" portion of the scrap metal pile shown on Figure 1 could be relocated further west on the project site, to the opposite side of the heavy metal portion of the scrap metal pile. This measure, which would relocate the tin pile approximately 100 feet further west from its current position, would create a larger buffer between one of the noisier aspects of the CVR operation and the existing residences to the east. In addition, the heavy metal portion of the scrap metal pile would provide partial shielding of tin pile activities in the easterly direction. This measure would also relocate loading and unloading activities associated with the tin pile (which are louder than the heavy metal activities) further from the existing residences to the east.
3. Vehicle crushing activities using the shear should also be relocated further west to reduce maximum noise levels generated by such activities at the existing residences to the east. A distance of at least 100 feet from the current crushing location should be implemented if feasible.
4. CVR should continue to adhere to its current operating hours, which limit on-site noise generation to daytime hours.

Due to the proximity of existing tin pile operations to the residences to the east, and the fact that there is little or no shielding of those operations in that easterly direction, these recommendations are expected to result in an appreciable reduction in CVR noise emissions at those residences. Once these recommendations are implemented, BAC recommends that follow-up noise monitoring be conducted to verify the effectiveness of these mitigation measures. In the event that such monitoring revealed exceedances of the County's noise standards, additional specific recommendations could be developed at that time.

Appendix A
Acoustical Terminology

Acoustics	The science of sound.
Ambient Noise	The distinctive acoustical characteristics of a given space consisting of all noise sources audible at that location. In many cases, the term ambient is used to describe an existing or pre-project condition such as the setting in an environmental noise study.
Attenuation	The reduction of an acoustic signal.
A-Weighting	A frequency-response adjustment of a sound level meter that conditions the output signal to approximate human response.
Decibel or dB	Fundamental unit of sound, A Bell is defined as the logarithm of the ratio of the sound pressure squared over the reference pressure squared. A Decibel is one-tenth of a Bell.
CNEL	Community Noise Equivalent Level. Defined as the 24-hour average noise level with noise occurring during evening hours (7 - 10 p.m.) weighted by a factor of three and nighttime hours weighted by a factor of 10 prior to averaging.
Frequency	The measure of the rapidity of alterations of a periodic signal, expressed in cycles per second or hertz.
L_{dn}	Day/Night Average Sound Level. Similar to CNEL, but with no evening weighting.
Leq	Equivalent or energy-averaged sound level.
L_{max}	The highest root-mean-square (RMS) sound level measured over a given period of time.
Loudness	A subjective term for the sensation of the magnitude of sound.
Masking	The amount (or the process) by which the threshold of audibility is for one sound is raised by the presence of another (masking) sound.
Noise	Unwanted sound.
Peak Noise	The level corresponding to the highest (not RMS) sound pressure measured over a given period of time. This term is often confused with the Maximum level, which is the highest RMS level.
RT₆₀	The time it takes reverberant sound to decay by 60 dB once the source has been removed.
Sabin	The unit of sound absorption. One square foot of material absorbing 100% of incident sound has an absorption of 1 sabin.
SEL	A rating, in decibels, of a discrete event, such as an aircraft flyover or train passby, that compresses the total sound energy of the event into a 1-s time period.
Threshold of Hearing	The lowest sound that can be perceived by the human auditory system, generally considered to be 0 dB for persons with perfect hearing.
Threshold of Pain	Approximately 120 dB above the threshold of hearing.



BOLLARD

Acoustical Consultants

Appendix B-1
 Central Valley Recycling Facility
 24hr Continuous Noise Monitoring at Site A
 Friday, January 18, 2013

Hour	Leq	Lmax	L50	L90
0:00	58	81	56	53
1:00	60	80	56	54
2:00	59	77	54	51
3:00	58	78	55	52
4:00	63	74	59	56
5:00	61	73	59	57
6:00	60	75	59	57
7:00	65	80	61	58
8:00	68	87	67	62
9:00	69	86	65	57
10:00	62	84	56	51
11:00	61	87	56	49
12:00	67	84	60	53
13:00	61	81	58	54
14:00	62	82	60	54
15:00	62	77	60	52
16:00	62	82	60	52
17:00	60	86	56	52
18:00	60	82	56	54
19:00	60	79	56	54
20:00	59	76	55	53
21:00	60	82	56	53
22:00	57	73	56	54
23:00	58	77	55	53

	Statistical Summary					
	Daytime (7 a.m. - 10 p.m.)			Nighttime (10 p.m. - 7 a.m.)		
	High	Low	Average	High	Low	Average
Leq (Average)	69	59	64	63	57	60
Lmax (Maximum)	87	76	82	81	73	76
L50 (Median)	67	55	59	59	54	56
L90 (Background)	62	49	54	57	51	54

Computed Ldn, dB	67.0
% Daytime Energy	82%
% Nighttime Energy	18%

EXHIBIT 13 (pg 14)

Appendix B-2
Central Valley Recycling Facility
24hr Continuous Noise Monitoring at Site A
Saturday, January 19, 2013

Hour	Leq	Lmax	L50	L90
0:00	57	79	54	53
1:00	55	73	53	51
2:00	57	78	53	50
3:00	57	79	54	51
4:00	60	83	55	52
5:00	59	77	56	53
6:00	60	78	59	56
7:00	59	74	58	56
8:00	62	73	61	55
9:00	62	75	60	54
10:00	62	80	61	54
11:00	60	76	54	48
12:00	59	76	53	47
13:00	62	77	60	49
14:00	60	74	57	50
15:00	60	74	56	48
16:00	57	73	51	48
17:00	57	77	54	51
18:00	59	83	55	53
19:00	57	73	55	53
20:00	56	74	54	52
21:00	58	74	55	53
22:00	58	76	55	53
23:00	57	79	53	51

	Statistical Summary					
	Daytime (7 a.m. - 10 p.m.)			Nighttime (10 p.m. - 7 a.m.)		
	High	Low	Average	High	Low	Average
Leq (Average)	62	56	60	60	55	58
Lmax (Maximum)	83	73	76	83	73	78
L50 (Median)	61	51	56	59	53	55
L90 (Background)	56	47	51	56	50	52

Computed Ldn, dB	64.8
% Daytime Energy	71%
% Nighttime Energy	29%

EXHIBIT 13 (pg 15)

Appendix B-3
 Central Valley Recycling Facility
 24hr Continuous Noise Monitoring at Site A
 Sunday, January 20, 2013

Hour	Leq	Lmax	L50	L90
0:00	56	73	53	51
1:00	57	80	53	52
2:00	57	81	53	51
3:00	54	76	52	50
4:00	57	76	52	49
5:00	55	73	53	51
6:00	55	76	54	52
7:00	56	82	53	51
8:00	57	72	54	52
9:00	56	76	51	47
10:00	56	77	47	44
11:00	57	76	45	42
12:00	55	75	45	41
13:00	56	82	44	42
14:00	53	72	44	41
15:00	60	80	46	42
16:00	55	74	48	45
17:00	57	75	51	47
18:00	57	72	53	51
19:00	57	83	53	51
20:00	57	73	54	52
21:00	56	74	54	53
22:00	61	82	55	52
23:00	55	72	54	50

	Statistical Summary					
	Daytime (7 a.m. - 10 p.m.)			Nighttime (10 p.m. - 7 a.m.)		
	High	Low	Average	High	Low	Average
Leq (Average)	60	53	57	61	54	57
Lmax (Maximum)	83	72	76	82	72	76
L50 (Median)	54	44	50	55	52	53
L90 (Background)	53	41	47	52	49	51

Computed Ldn, dB	63.3
% Daytime Energy	61%
% Nighttime Energy	39%

EXHIBIT 13 (Pg 16)

Appendix B-4
 Central Valley Recycling Facility
 24hr Continuous Noise Monitoring at Site A
 Monday, January 21, 2013

Hour	Leq	Lmax	L50	L90
0:00	57	75	52	50
1:00	55	73	52	50
2:00	56	75	54	51
3:00	58	71	55	50
4:00	62	78	59	56
5:00	60	78	59	56
6:00	60	78	57	55
7:00	60	78	57	54
8:00	65	89	62	60
9:00	63	79	59	54
10:00	61	83	56	50
11:00	61	77	56	51
12:00	62	76	61	52
13:00	62	78	60	56
14:00	63	85	60	55
15:00	62	88	57	53
16:00	63	92	55	52
17:00	59	84	54	52
18:00	58	82	54	52
19:00	58	72	55	52
20:00	59	79	55	53
21:00	59	75	57	54
22:00	55	70	54	52
23:00	54	69	52	50

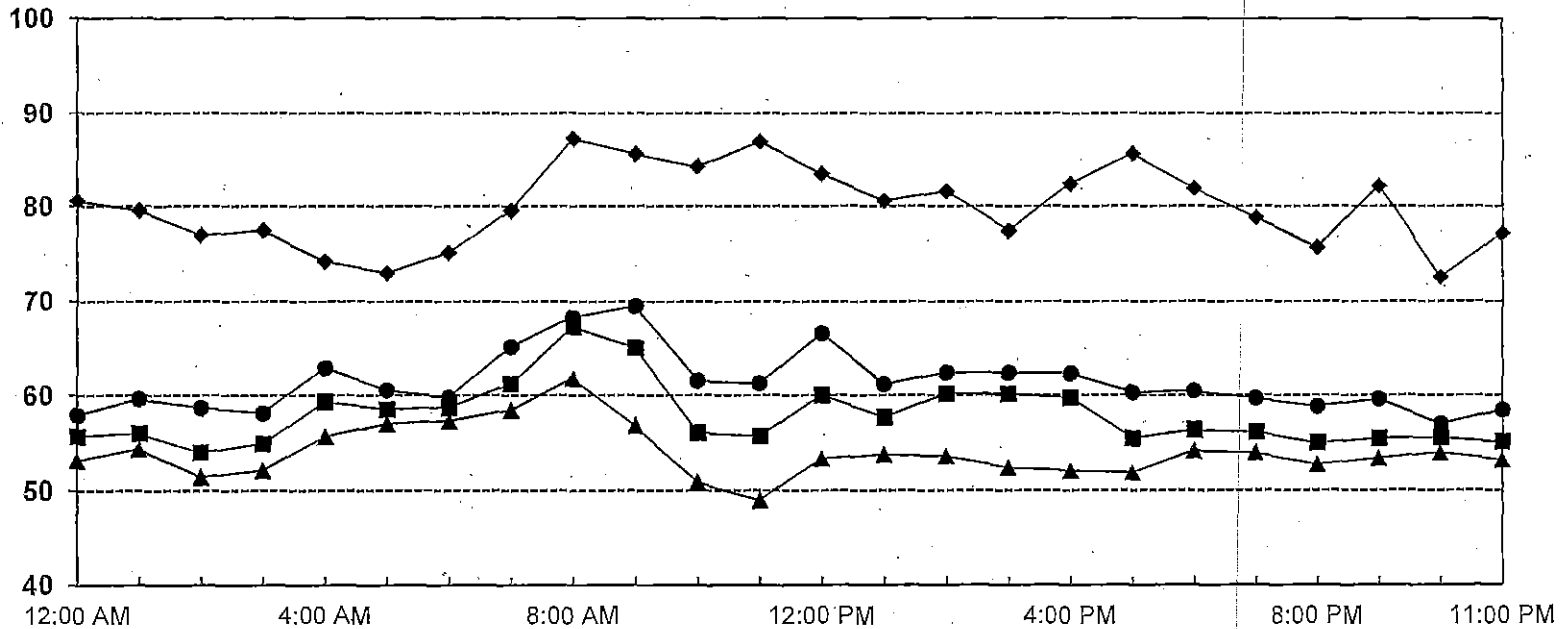
	Statistical Summary					
	Daytime (7 a.m. - 10 p.m.)			Nighttime (10 p.m. - 7 a.m.)		
	High	Low	Average	High	Low	Average
Leq (Average)	65	58	61	62	54	58
Lmax (Maximum)	92	72	81	78	69	74
L50 (Median)	62	54	57	59	52	55
L90 (Background)	60	50	53	56	50	52

Computed Ldn, dB	65.4
% Daytime Energy	77%
% Nighttime Energy	23%

EXHIBIT 13 (Pg 17)

Appendix C-1
Central Valley Recycling Facility
24hr Continuous Noise Monitoring at Site A
Friday, January 18, 2013

Sound Level, dBA



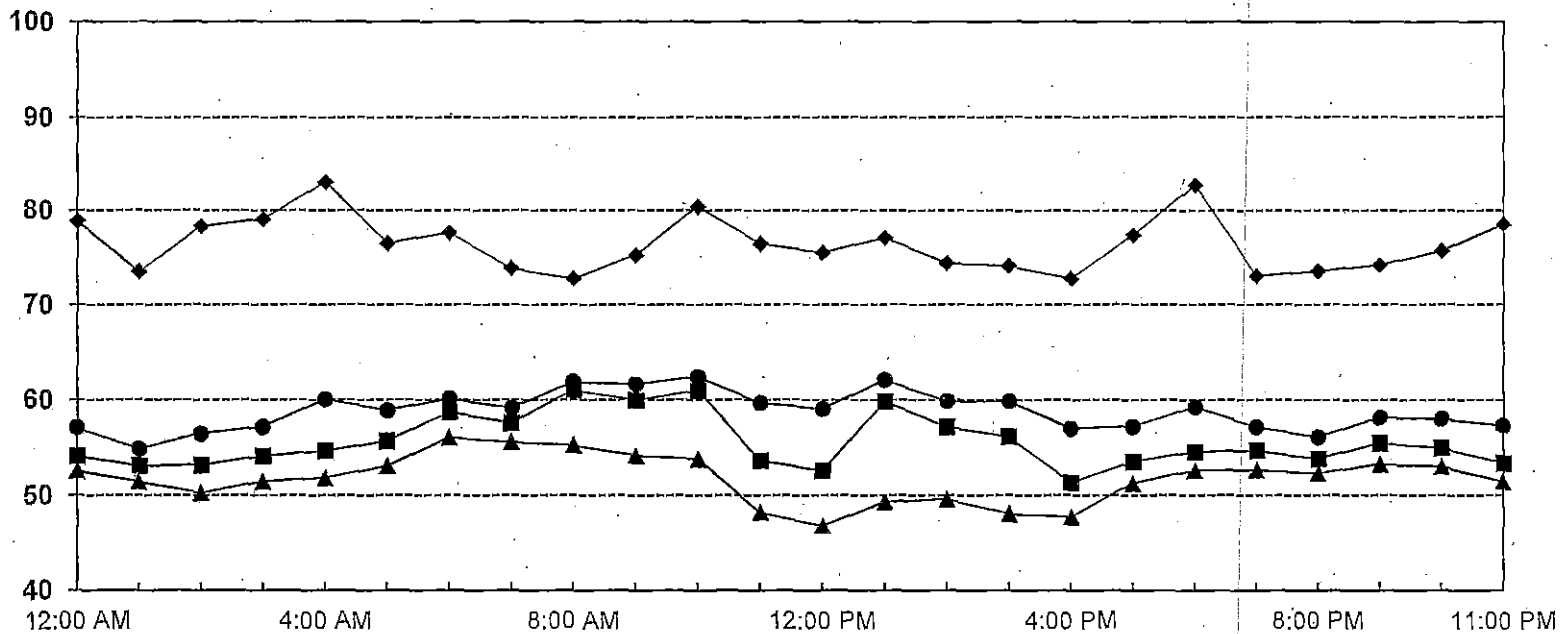
Ldn: 67 dB

● Average (Leq)
 ◆ Maximum (Lmax)
 ■ L50
 ▲ L90

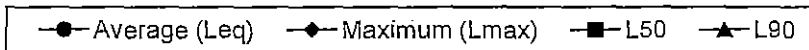
EXHIBIT 13 (pg 18)

Appendix C-2
Central Valley Recycling Facility
24hr Continuous Noise Monitoring at Site A
Saturday, January 19, 2013

Sound Level, dBA



Hour of Day



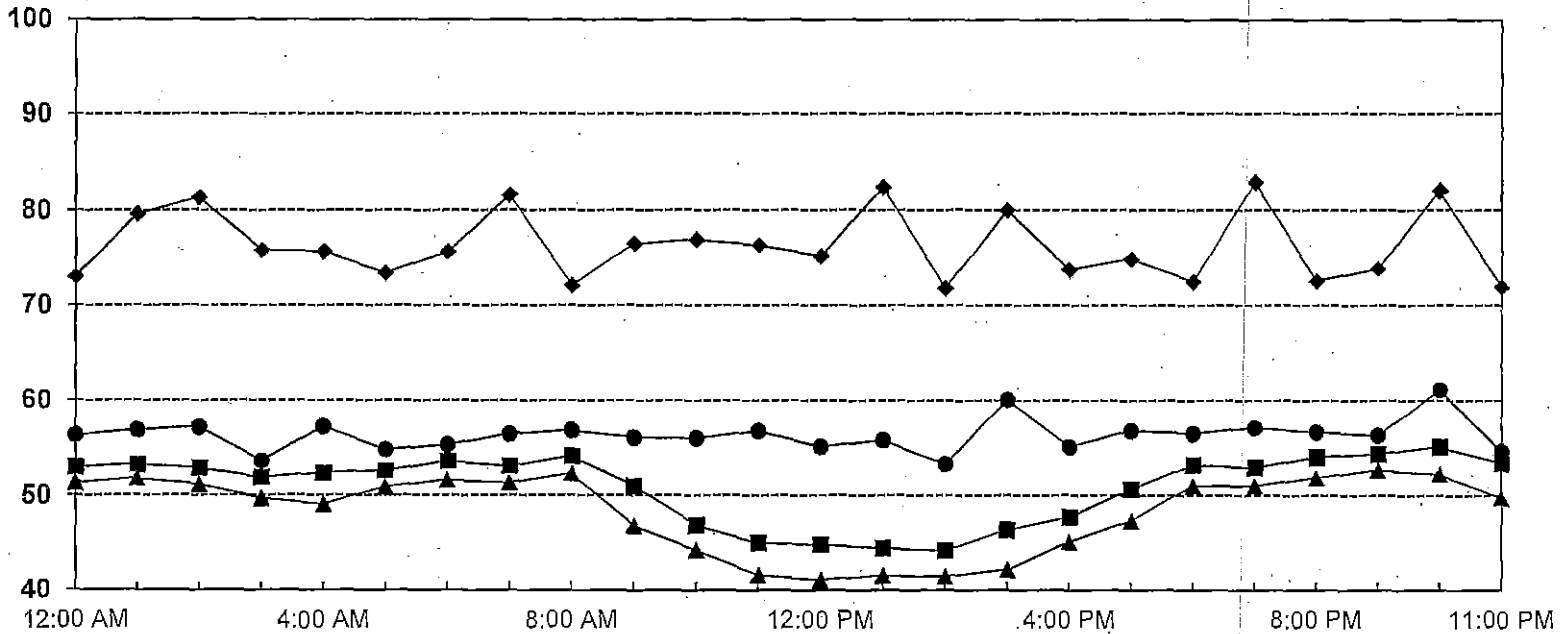
Ldn: 65 dB



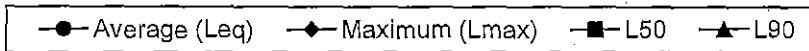
EXHIBIT 13 (09 19)

Appendix C-3
Central Valley Recycling Facility
24hr Continuous Noise Monitoring at Site A
Sunday, January 20, 2013

Sound Level, dBA



Hour of Day

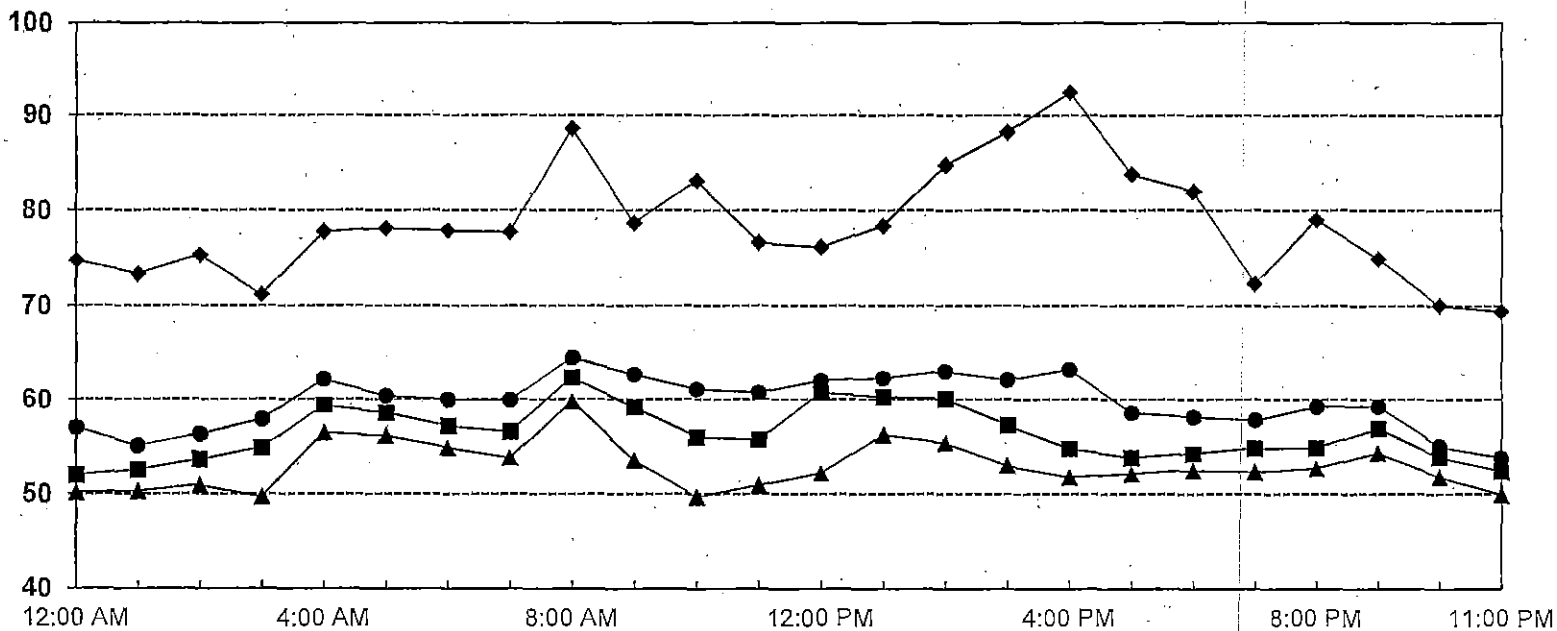


Ldn: 63 dB

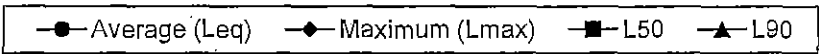
EXHIBIT 13 (09 20)

Appendix C-4
Central Valley Recycling Facility
24hr Continuous Noise Monitoring at Site A
Monday, January 21, 2013

Sound Level, dBA



Hour of Day



Ldn: 65 dB

EXHIBIT 13 (pg 21)





DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

1010 10TH Street, Suite 3400, Modesto, CA 95354
Phone: 209.525.6330 Fax: 209.525.5911

February 21, 2013

Sent by Certified and Regular Mail

Donald G. Francis, Business Owner
2220 Millcreek Drive
Modesto, CA 95351

Stanley A. & Joyce O. Goblirsch, Property Owners
P.O. Box 1010
Ceres, CA 95307

SUBJECT: CENTRAL VALLEY RECYCLING – 524/526 9TH STREET, MODESTO

Dear Mr. Francis, Mr. Goblirsch, and Ms. Goblirsch,

This letter is a follow-up to the attached September 5, 2012 letter regarding the business license and scrap metal dealer license renewal applications for Central Valley Recycling. As addressed in the attached letter, the scrap metal recycling operation occurring outdoors on the east side of the property is not a permitted use in the C-2 (General Commercial) zoning district. While the September 5th letter was received by the Goblirsch's on September 7, 2012, the letter sent to Mr. Francis was returned to our office as unclaimed on December 13, 2012. The certified mail packet being sent to Mr. Francis with this letter includes the original contents of the September 5th letter. We have verified that the Millcreek address used to send the September 5th letter matches Mr. Francis's residential address information provided on the license renewal applications and accompanied driver's license. As a result of the September 5th letter being sent to Mr. Francis's correct address of record and receipt of the letter by the property owners, the 10-day appeal has expired.

The Planning Department has meet with Richard Francis and his land-use representatives (JB Anderson Land Use Planning) to discuss options for legalizing the scrap metal recycling operation. As part of the on-going discussion the Planning Department is in receipt of the January 30, 2013 Noise Study prepared for the scrap metal recycling operation. While the Planning Department has requested clarification regarding how the consultant established acceptable noise standards, the Noise Study clearly reflects that County's noise standards are being exceeded. While the Planning Department is available to continue discussing options, and the process, for legalizing the scrap metal recycling operation, the operation is not permitted to continue.

Central Valley Recycling
February 21, 2013
Page 2

The need to cease the scrap metal recycling operation was brought to your attention in the September 5th letter. If the activity continues, the County will pursue immediate enforcement action by issuing, to the property owner, a Notice and Order to Abate. Failure to cease and desist the activity in accordance with the Notice will result in this matter being presented to the Stanislaus County Nuisance Abatement Hearing Board and may result in any appropriate legal action being taken by the County.

Please do not hesitate to contact me if you have any questions regarding this letter.

Sincerely,



Angela Freitas
Planning and Community Development Director

Cc: Richard Francis: richardcvr@att.net
Mark Niskanen, J.B Anderson Land Use Planning: mark@jbandersonplanning.com

Attachment: September 5, 2012 letter to Donald Francis
Enclosures: Contents of the September 5, 2012 undelivered certified letter sent to Donald Francis (certified mail only)

EXHIBIT 14 (pg 2)





DEPARTMENT OF ENVIRONMENTAL RESOURCES

3800 Cornucopia Way, Suite C, Modesto, CA 95358-9492
Phone: 209.525.6770 Fax: 209.525.6773

February 21, 2013

FILE COPY

Central Valley Recycling
524 S. 9th Street
Modesto, CA 95351

Dear Mr. Francis:

On December 20, 2012, the Stanislaus County Department of Environmental Resources, Hazardous Materials Division investigated a complaint at the above-mentioned facility. As a result of the investigation, contaminated storm water was identified on the property. Upon being presented with the option of having the water tested by a certified laboratory or removing it from the property as hazardous waste, the business operators declared they would remove the water as a hazardous waste.

Title 22, California Code of Regulations §66262.11 states that a determination must be made for all hazardous wastes, and §66262.40 states hazardous waste manifests must be maintained on site for at least three years following the removal of that hazardous waste from any property.

In January of 2013, I requested to see the manifest for the contaminated storm water disposal. Central Valley Recycling declared to this Department that a manifest was obtained from a third party trucking company who removed the hazardous waste water from the property. Central Valley Recycling declared, on three separate occasions, including during my visits on December 20, 2012, and January 25, 2013, that a copy of the hazardous waste manifest would be provided to this Department as proof of proper disposal, but has failed to do so after each declaration.

Your facility is in violation of the California Health & Safety Code and Title 22, California Code of Regulations. You were directed to correct the above mentioned violations numerous times. To date there have been no corrective actions submitted to this office for any of the violations. Due to the serious nature of these violations and lack of corrective action, this Department may observe the following procedures including but not limited to:

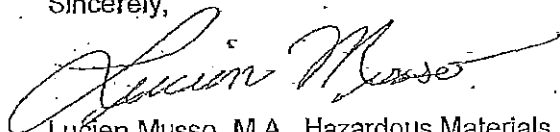
- *Routine inspections of the business may be increased to monitor compliance.*
- *Re-inspection may be conducted when significant violations occur or when the facility has a history of non-compliance.*
- *An office hearing can be held to determine reasons for non-compliance.*

Central Valley Recycling
February 21, 2013
Page 2.

Please find enclosed, the Hazardous Waste Generator Requirements Fact Sheet from the Department of Toxic Substances Control.

If you have any questions regarding this matter, please contact me directly at (209) 525-4778 or contact our office at (209) 525-6700.

Sincerely,



Lucien Musso, M.A., Hazardous Materials Specialist
Hazardous Materials Division
Environmental Resources, Stanislaus County
lmusso@envres.org



**DEPARTMENT OF ENVIRONMENTAL RESOURCES
HAZARDOUS WASTE GENERATOR NTC/SOV REPORT**
3800 CORNUCOPIA WAY, SUITE C
MODESTO, CA 95358-9492

www.stancounty.com PHONE: (209) 525-6700 FAX: (209) 525-6774
NTC = Notice To Comply SOV = Summary of Violations

Facility: <u>Central Valley Recycling</u>	Bus. No.: <u>7838</u>
Address: <u>524 S Ninth</u>	Date: <u>12/20/2012</u>
City/Zip: <u>Modesto 95351</u>	EPA No.: <u>CAL000323420</u>
Contact/Title: <u>Donnie Francis</u>	Work Phone: <u>544-1578</u>
Owner: _____	Owner Phone: _____

Inspection Type: Initial _____ Follow-Up _____ Routine _____ Complaint X

Consent to enter given by: Donnie Francis Title: Owner

The above facility was inspected this date to determine compliance with the California Health and Safety Code (H&S) Chapter 6.5 and Title 22 of the California Code of Regulations (CCR). Violations determined from this inspection are ✓ below and must be corrected as indicated.

I OPERATIONS

Hazardous Waste Determination

_____ CCR6626.11 Hazardous Waste determination not made for all waste.

Identification Number

_____ CCR66262.12(a) An EPA number has not been obtained.

Disposal and Transportation

_____ CCR66262.12(e) Hazardous waste transported off-site by a non-registered hauler.

_____ H&SC25189.5 Hazardous waste disposed on-site without a permit.

Storage and Treatment

_____ CCR66262.34 Hazardous waste stored longer than 90 days or other authorized time period.

_____ H&SC25189.5 Hazardous waste treated on-site without a permit.

Extremely Hazardous Waste

_____ CCR67430.1(a)(b) Extremely Hazardous Waste handled or disposed without a permit.

_____ CCR67430.1(d) Deviation from approved handling/disposal method..

II WALK THROUGH OBSERVATIONS

Preparedness and Prevention

_____ CCR66265.5(a); and Generator has not prepared contingency plan or it is not maintained on-site.

_____ CCR66265.53

_____ CCR66265.52 Contingency plan does not include all required information.

_____ CCR66265.55 Emergency Coordinator is not familiar with all aspects of the site-operation and emergency procedures.

_____ CCR66265.31 Facility not designed/operated to minimize a release of hazardous waste.

_____ CCR66265.32(a)(b) Access to communication/alarm systems is not provided where hazardous waste is being handled.

_____ CCR66265.32(c) Spill control/containment equipment is not available or not maintained.

_____ CCR66265.35 Adequate aisle space is not available for unobstructed movement of personnel or equipment.

DEPARTMENT OF ENVIRONMENTAL RESOURCES
HAZARDOUS WASTE GENERATOR NTC/SOV REPORT

II WALK THROUGH OBSERVATIONS (Continued)

Use and Management of Containers

- ___ CCR66262.34(f)(1) Hazardous waste containers are missing labels, dates, and/or improperly labeled.
- ___ CCR66265.173(a) Hazardous waste containers are not kept closed while in storage.
- ___ CCR66265.171 Containers are not in good condition or are not managed to prevent leaks.
- ___ CCR66265.172 Containers are not compatible with the waste in them.
- ___ CCR66265.176 Ignitable or reactive waste are not stored 50 feet or greater from property line.
- ___ CCR66265.177(a)(b) Incompatibles are not stored or protected in separate containers.
- ___ CCR66265.177(c) Incompatibles are not managed to prevent contact or mixing.

Recyclable Materials (Used Oil)

- ___ H&SC25250.7 Intentionally contaminated used oil is mixed with other hazardous waste.
- ___ H&SC25250.5(a) Disposed of used oil by discharge to sewers or burning as fuel, or disposal on land without authorization.
- ___ CCR66266.130(c)(b) Failed to manage used oil separated from used oil filters during drainage process as hazardous waste.

III DOCUMENT REVIEW

Manifest

- ___ CCR66262.20 Manifest not used for transporting hazardous waste.
- ___ CCR66262.21 Manifest not completed with all required information.
- ___ CCR66262.22 Manifest/receipts not maintained on-site.
- ___ CCR66262.23 Copies of manifest/exception reports not submitted to DTSC.
- ___ CCR66262.40 Manifest, test results, annual/biennial reports not retained on-site for at least 3 years.
- ___ CCR66268.7(a); and Land Disposal Restriction Notification and Certification were not submitted to T.SDF.
- ___ CCR8.1-8.6

Training

- ___ CCR66265.16(a)(b) Personnel training is not adequate or conducted by a person trained in hazardous waste management.
- ___ CCR66265.16(c)(d)
- ___ CCR66265.16(e) Complete personnel training records are not being maintained on-site.

Reports and Notifications

- ___ CCR66265.41 Generator has not submitted the biennial report to DTSC.
- ___ CCR66265.56(l) State and Local authorities were not notified before resuming operation after an emergency.
- ___ CCR66265.56(j) Report not submitted to DTSC within 15 days of emergency incident.

IV SUMMARY OF VIOLATIONS & CLOSING COMMENTS:

Richard Francis to send last 6 to 12 months of stormwater sample results to DER. Please clean diesel spill on rear of property. Please mitigate your storm water. Solvent sniffer detected amounts of solvent in storm water.

Accepted by: (Name/Title) DF owner Inspected by: L. Musso



THOMAS H. TERPSTRA
ATTORNEY AT LAW
A PROFESSIONAL CORPORATION

February 27, 2013

Angela Freitas, Director
Stanislaus County Department of Planning
and Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

Re: Central Valley Recycling

Dear Ms. Freitas:

This office has been retained to represent Central Valley Recycling in connection with the County's refusal to issue a renewed license to operate their facility located at 524 S. 9th Street. Earlier today, I submitted a Public Records Act request for documents pertaining to this matter. Although the County has 10 days to provide a response to my Public Records Act request, I would respectfully request that you expedite production of the relevant documents. I am particularly interested in obtaining documents and e-mails surrounding the County's 2009 decision to issue a license to operate at this location.

From my limited review to date, it appears that in your earlier capacity as a Staff Planner, you attempted to deny my clients a license to operate in 2009, but your decision was subsequently overruled within the Planning Department. At that time, the Department made an appropriate finding that both CRV recycling and scrap metal recycling was an allowable use on this site, subject only to a height limitation specifically enumerated in Section 21.08.020 of the County Code. Now, more than three years later, and after my clients have expended hundreds of thousands of dollars in site improvements, the County appears to have reversed its earlier determination. It is our position that the 2009 determination of zoning consistency was and is binding on the County, and the appropriate license(s) must be issued.

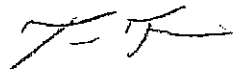
My client is willing to continue to explore opportunities for reducing noise on the site, as evidenced by its preparation of the Environmental Noise Analysis dated January 30, 2013. Further, as suggested in your February 21, 2013 letter, my client would welcome the opportunity to discuss this matter further, with the goal of reaching a mutually acceptable compromise.

Angela Freitas, Director
Stanislaus County Department of Planning
and Community Development
February 27, 2013
Page 2

In the meantime, however, it is my position that my client maintains a vested right to operate its business consistent with County codes and regulations, and they will do so pending resolution of this matter.

Very truly yours,

Law Office of Thomas H. Terpstra


Thomas H. Terpstra
Attorney-at-Law

THT:kk



THOMAS H. TERPSTRA

ATTORNEY AT LAW

A PROFESSIONAL CORPORATION

tterpstra@thtlaw.com

578 N. WILMA AVENUE

209.599.5003

SUITE A

F209.599.5008

RIPON, CA 95366

February 27, 2013

Angela Freitas, Director
Stanislaus County Department of Planning
and Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

Re: Public Records Act Request/Central Valley Recycling
Records of issuance of business licenses and/or scrap metal dealers

Dear Ms. Freitas:

Pursuant to the California Public Records Act (Government Code § 6250 et seq.), I am requesting copies of all records pertaining to the issuance of business licenses and/or scrap metal dealers licenses to Central Valley Recycling located at 524/526 9th Street, Modesto, California, pursuant to Stanislaus County Code Chapters 6.04 and 6.74. This request includes licenses, notes of investigations by county officials, file notes and memoranda, zoning analyses, and any and all emails pertaining to the same.

Government Code section 6250 subdivision (e) defines Public Records as "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics."

A Writing is defined as "any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form or communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored." (Gov. Code, § 6253 subd. (g).)

Pursuant to Government Code section 6253 subdivision (b), the copies are to be exact copies unless it is impractical to provide exact copies.

Under Government Code section 6253 subdivision (b), the County may charge the "direct costs" of making the copies. Please send an invoice to our office for any such expenses. In the event that the County requires a deposit, please fax to me the County's adopted procedures for deposits and for charging for copies under the Public Records Act, along with the requested deposit amount.

EXHIBIT 17 (pg 1)

Angela Freitas, Director
Stanislaus County Department of Planning
and Community Development
February 27, 2013
Page 2

If the County is unable to have all copies available within 10 calendar days of the date of the receipt of this request, please notify me immediately of the basis for non-compliance. (Gov. Code, § 6253(c).)

If the County denies this request, or any portion thereof, please advise me in writing of the basis of the denial, and in conformance with Government Code section 6253 subdivision (d), the name and title of the person making the denial.

Thank you in advance for your anticipated cooperation.

Very truly yours,

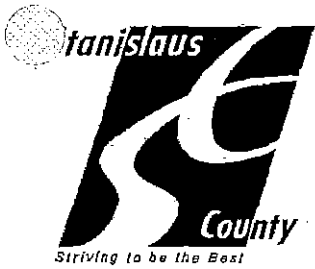
Law Office of Thomas H. Terpstra



Thomas H. Terpstra
Attorney-at-Law

THT:kk





STANISLAUS COUNTY COUNSEL
1010 Tenth Street, Suite 6400
Modesto, CA 95354
Phone: 209.525.6376
Fax: 209.525.4473

John P. Doering
County Counsel
Edward R. Burroughs
Assistant County Counsel

DEPUTIES
Thomas E. Boze
Vicki F. de Castro
Alice E. Mimms
Deirdre E. McGrath
Robin L. McIver
Maria Elena R. Ratliff
Carrie M. Stephens
Wm. Dean Wright

March 7, 2013

Thomas H. Terpstra, Esq.
578 N. Wilma Avenue, Suite A
Ripon, California 95366
Phone: (209) 2599-5003
Facsimile: (209) 599-5008
Via email: tterpstra@thtlaw.com

Re: FEBRUARY 27, 2013, PUBLIC RECORDS ACT REQUEST.

Dear Mr. Terpstra:

We are in receipt of your letter of February 27, 2013, requesting the disclosure of certain documents under the Public Records Act concerning Central Valley Recycling located at 524/526 9th Street, Modesto.

Pursuant to Government Code section 6253, this letter is to inform you that we have determined that your request, in part, seeks copies of disclosable public records in the possession of the County, and that the County intends to provide records responsive to your request, except for records retained by the County that are exempt from disclosure by express provisions of law, including, without limitation, preliminary drafts and notes pursuant to Government Code section 6254 (a), attorney-client communication pursuant to Government Code section 6254 (k) and Evidence Code section 1040, corporate financial and proprietary information and trade secrets pursuant to Government Code sections 6254 (k), 6254.15, 6255, and Evidence Code sections 1040 and 1060.

After staff has located the documents and they are reviewed for exemptions, I will inform you of the costs to copy the records or other cost related to production of electronic records¹ and how you may obtain copies.

If you have any questions you may contact me at the number above.

Sincerely,
JOHN P. DOERING
County Counsel

By: 
THOMAS E. BOZE
Deputy County Counsel

TEB:tb
H:\PROJECTS\Research\Public Records Act\PRA Responses\3.7.13 Response to Tom Terpstra re Central Valley Recycling.docx

¹ Gov. Code, § 6253.9



Thomas H. Terpstra, Esq.
March 7, 2013
Page 2

STANISLAUS COUNTY COUNSEL

Bcc: Angela Freitas, Interim Director Planning and Community Development



EXHIBIT 18 (pg 2)



THOMAS H. TERPSTRA

ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
578 N. WILMA AVENUE
SUITE A
RIPON, CA 95366

tterpstra@thtlaw.com

209.599.5003
F209.599.5008

April 16, 2013

Deputy County Counsel Thomas Boze
1010 Tenth Street, Suite #6400
Modesto, California 95354



Re: *Central Valley Recycling*
THH Matter ID: 2886-001

Dear Mr. Boze:

As you are aware, this office represents Central Valley Recycling ("CVR"). This letter responds to the recent correspondence from the Stanislaus County Department of Planning and Community Development indicating that CVR's application for a renewal business license has been denied in part. This letter shall also serve as CVR's request for a hearing to dispute the alleged violations described in the Notice and Order to Abate issued April 2, 2013. We have notified Robert Miramontes in the Stanislaus County Environmental Resources, Code Enforcement Unit, of CVR's request for a hearing. He has indicated that he will await a response to this letter from your office before proceeding with the hearing.

For the following reasons¹, it is clear that the County's refusal to reissue CVR's business license and its service of the Notice and Order to Abate issued April 2, 2013 are improper because: (1) the scrap metal recycling operation is properly located in the C-2 zoning district; and (2) CVR has acquired a vested right to continue its scrap metal recycling operation at its present location.

CVR's History and Dealings with the County

CVR has been in business at its present location on 9th Street (C-2 / General Commercial zoning district) since 1991. CVR's operation has been conducted pursuant to valid business licenses issued by Stanislaus County since 1991. Its operation began with California Redemption Value ("CRV") recycling and expanded into scrap metal recycling in 2009. Since 2004, CVR has expended well over \$1 Million to make improvements to its property and operation in reliance upon the business licenses issued by the County. Significantly, since the 2009 approval of CVR's scrap metal business license, CVR has expended nearly \$500,000 in physical improvements to the property associated with that aspect of its business. Additionally, as a result of the scrap metal business, CVR increased its staff from 9 employees to 23 full time employees. Thus, CVR's payroll has increased from \$14,000 per month to \$43,934, plus sub-haulers who receive approximately \$43,150 per month.

On March 4, 2009, in response to CVR's business license renewal application, the County issued a letter to CVR indicating that the operation of a scrap metal yard requires location in an M (Industrial) zoning district. Subsequently, on July 21, 2009, the County issued a letter confirming issuance of CVR's

¹ CVR reserves the right to provide additional information in support of its position in future proceedings.

business license, which permitted CVR to operate in the C-2 zoning district. This letter imposed no conditions on CVR's operation. Rather, it simply reminded CVR that it was required to comply with Section 21.08.020(B)(2) related to storage of material. Notably, the business license issued to CVR on July 21, 2009 identifies the type of business as "Recycling and Scrap." (emphasis added). The business license issued in 2009 was reissued annually by the County through the July 20, 2012 expiration date pursuant to a process that required CVR to submit a new application and fee each year.

CVR continued to operate as it had in the past in compliance with all applicable regulations, including observance of the storage requirements noted in the letter. It was not until September 5, 2012 that the County changed its position and concluded: (1) that only the CRV recycling portion of CVR's business is a permitted use in the C-2 zoning district; and (2) that the operation of the scrap metal recycling business is not in character with permitted C-2 uses. As a result of its conclusions, the County refused to approve renewal of CVR's business license for the scrap metal recycling aspect of its business and required that CVR submit a new application solely for CRV recycling. Notably, none of the City's correspondence identifies any change in CVR's business or violation of any regulation which would justify denying CVR's business license renewal request. Instead, for the first time, the County notified CVR that it had received complaints from surrounding residential properties relating to noise and air pollution. CVR is in compliance with all regulations imposed by the San Joaquin Valley Air Pollution Control District ("SJVAPCD"). CVR has also been visited by Stanislaus County Environmental Resources, who found everything on site to be in good order. To the extent that there have been noise complaints, CVR had not previously been provided with notice and an opportunity to address the complaints. In response to the complaints, CVR had an Environmental Noise Analysis prepared in January 2013, which was submitted to the County on February 7, 2013.

By letter dated February 21, 2013, the County reiterated its position that the scrap metal operation is not a permitted use in the C-2 zoning district. The County has indicated that the Noise Analysis reflects that the County's noise standards are being exceeded, but that the County is available to continue discussing options for CVR's scrap metal recycling operation.

Finally, the County issued a Notice and Order to Abate on April 2, 2013, indicating that the scrap metal operation constitutes a nuisance in that it endangers the life, health, property, safety, or welfare of the public. The Notice requires that CVR immediately discontinue its scrap metal business.

CVR's Operation in the C-2 Zoning District

It is important to note at the outset that none of the zoning districts in the County expressly permit scrap metal recycling. Accordingly, the operation must be placed in a zoning district with similar uses. The County's argument that scrap metal recycling is not similar in character and purpose to the uses expressly permitted the C-2 (General Commercial) zoning district is without merit.

Section 21.56.020 identifies permitted uses in the C-2 district.² CVR's scrap metal recycling operation is similar in character and purpose to at least the following uses enumerated in Section 21.56.020(C) and (E): service stations, automobile repair shops, body and paint shops, bottling plants,

² In addition, Sections 21.56.030(D) and (E) identify multiple similar uses that are permitted in the C-2 zoning district with a use permit, including, but not limited to: manufacturing and assembly of bottles, glass products and paper products made from previously prepared materials. While we do not believe a use permit is necessary for CVR's operation in light of the uses permitted in Section 21.56.020, we provide the foregoing examples merely to show that there are additional similar uses permitted in the C-2 zone.

building materials yards, cabinet shops, contractors yards, farm and equipment sales and service, household appliance sales and service, machine shops, motorcycle shops, recreational vehicle service and sales, storage and service, sheet metal shops, tire battery and automobile parts establishments. It defies reason to argue that a recycling yard is *not* similar in character and purpose to such a wide variety of uses.³

Vested Rights

Even if CVR's scrap metal recycling operation is not properly placed in the C-2 zoning district, which we dispute, CVR has acquired a vested right to continue its operation as it has since 2009.

The leading case in the development of the vested rights doctrine as applied to land use law is *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785. *Avco* recognized that "[i]t has long been the rule in this state and in other jurisdictions that if a property owner has performed substantial work and incurred substantial liabilities in good faith reliance upon a permit issued by the government, he acquires a vested right to complete construction in accordance with the terms of the permit. [Citations.] Once a landowner has secured a vested right the government may not, by virtue of a change in the zoning laws, prohibit construction authorized by the permit upon which he relied." *Id.* at 791. *Avco* has been interpreted as extending the "building permit rule" by finding that permits other than building permits may afford "substantially the same specificity and definition to a project as a building permit" thereby permitting a developer to acquire a vested right even though the permit is not a building permit. *Id.* at 794. Although *Avco* dealt with a landowner's vested rights to continue to construct improvements, the vested rights principals announced in that case can be extended to apply to continued use of property after improvements have been constructed. As cases following *Avco* have explained, a vested right may be based on either a building permit or "the functional equivalent" of a building permit. In CVR's case, the County's issuance of business licenses for a number of years, and CVR's expenditure of significant funds to make improvements to its facility and operation in reliance on the business licenses, have created a vested right permitting CVR to continue its scrap metal operation.

The facts of CVR's case are similar to those in *Morton v. Superior Court of San Mateo County* (1954) 124 Cal.App.2d 577. In *Morton*, a quarry had been operating at its location for 25 years at the time the County of San Mateo enacted an ordinance requiring an operating permit. When the ordinance took effect, the quarry applied for a permit, which the county planning commission denied. The quarry filed a petition for writ of mandate challenging the validity of the county's denial of its permit application. While the mandamus proceeding was still pending, the county obtained an injunction prohibiting continued operation of the quarry based on (1) allegations that the quarry was operating in violation of regulations contained in the ordinance, which constitute a nuisance;⁴ and (2) the quarry's operation without a permit as required by the ordinance. The quarry appealed. The Court of Appeal reversed. With respect to the injunctions based upon the alleged nuisance conditions, the Court of Appeal noted that the conditions complained of regarding the quarry's operation (noise, dust and traffic) were able to be corrected and highlighted the considerable importance of that fact because the quarry was not given the

³ The County has also previously mentioned that the M (Industrial) zoning district is the appropriate location for a scrap metal recycling operation. (See County's March 4, 2009 letter). The only uses listed in Section 21.60.020(A) which are arguably similar to a scrap metal recycling yard are junkyards, wrecking yards and auto dismantling yards. Notably, however, Section 21.60.020(A) also permits all uses permitted in the C districts (except dwelling units of any kind unless otherwise specifically permitted in the M zone).

⁴ The ordinance was violated by the quarry's use of unlawful excavation practices, failure to fence certain areas and creation of excessive noise and dust. *Id.* at 586.

opportunity to modify its operations to minimize or prevent the conditions about which the complaint was made. *Id.* at 581. The Court of Appeal found that the injunction prohibiting the quarry's operation of its lawful business was "much too broad" and improper since the evidence showed that the conditions creating the nuisance could be rectified. *Id.* at 581-582, 586. Instead, the trial court should have enjoined only the objectionable practices and imposed conditions to correct them or ordered that the business be operated in compliance with reasonable regulations. *Id.* at 586-587. Prohibiting operation of a business can only be justified where irreparable injury to others necessarily results and the condition causing the injury cannot be rectified except by complete prohibition.⁵ *Id.* at 582. Instead, injunctions and ordinances regulating businesses should be restricted to address the condition causing a specific injury and should permit the business to operate if it is able to do so while avoiding the specific injury. *Id.* at 583. Provided that use of one's property may be had without injury to others, it is a lawful use which cannot be absolutely prohibited under the guise of the exercise of the police power. *Id.* at 585-586, quoting *In re Kelso*, 147 Cal. 609, 612. The Court of Appeal also found the injunction based on the quarry's operation without a permit was improper and premature because the planning commission's denial of the permit was under direct legal attack in the pending mandamus proceeding. *Id.* at 587-588. Since the denial of the permit was based on the same alleged nuisance circumstances which the Court found insufficient to justify imposition of an injunction, the quarry could not be deprived of its "vested right" "to engage in a lawful business" while the mandamus proceeding was still pending. *Id.* at 587-588.

The County's Notice and Order to Abate is equivalent to the injunction obtained in *Morton*, as both seek to completely halt the operation at issue. In both cases, the agency's conduct is improper. Similar to the quarry operation in *Morton*, CVR has a vested right to engage in both aspects of its business. CVR has been operating for 22 years, 4 of which have included the scrap metal recycling. Notably, there has been no change to the County's zoning that affects CVR's operation, as CVR has always been located in the C-2 district and the County has always only required a business license; no other permits or licenses are at issue. Nor has there been any change in CVR's operation since the initial 2009 issuance of a business license for both the CRV and scrap metal recycling aspects of CVR's business. Thus, there is no apparent basis for the County's sudden change of position and refusal to approve the renewal business license. Since there have been no regulatory or operational changes, CVR's case is even stronger than the quarry's case in *Morton*, where the applicable ordinance had changed. Additionally, the conditions which the County is alleging constitute a nuisance (noise and dust) are capable of being corrected. In fact, CVR has worked with the SJVAPCD and Stanislaus County Environmental Resources to ensure that its operations comply with all applicable regulations. CVR also had an Environmental Noise Analysis completed to evaluate its noise levels. Thus, CVR has been working to address any conditions which may arguably constitute a nuisance. Under the holding and reasoning of *Morton*, rather than issuing the Notice and Order to Abate requiring that CVR immediately discontinue its scrap metal business, CVR should be given an opportunity to work with the County (and/or neighboring property owners) to address any outstanding grievances.

Additionally, CVR's case should be contrasted with cases where a business license is obtained based upon misrepresentations concerning the anticipated business operations and/or where the regulations governing its business operation have changed. For example, in *Walnut Properties, Inc. v. City Council* (1980) 100 Cal.App.3d 1018, 1024, the plaintiff acquired a movie theatre that had been in operation for 25 years and obtained a business license based on the representation that it simply intended to continue the existing type of operation exhibiting "family" type films. The movie theatre closed for remodeling and did not re-open until after the city adopted a new zoning ordinance which prohibits "adult

⁵ Notably, the Court of Appeal found that the injunction in *Morton* practically amounted to a taking of the property since it denied the owner the right to engage in the only business for which the land is fitted. *Id.* at 582.

entertainment businesses" in certain locations of the city, including where the movie theatre was located. *Id.* at 1020, 1024. The Court of Appeal found that the plaintiff did not acquire a vested right to operate an adult entertainment business by acquiring a closed building and a business license to operate a motion picture theatre. *Id.* at 1024. Specifically, the property was not being put to a lawful use which continued up to and after the time the use became unlawful or nonconforming. *Id.* CVR's case is distinguishable in that it obtained valid business licenses from the County from 2009 – 2012 based upon its operation of both CRV and scrap metal recycling. Thereafter, it continued to use the property *without any changes to its operations and without any changes to the County's ordinances*. Accordingly, the facts related to CVR's operation do not justify refusal to issue its renewal business license for both CRV and scrap metal recycling.

There is also case law to support the rule that where a vested right is based on a statute or permit other than a building permit, expiration of the building permit will not cause the vested right to expire. *See, e.g., Pardee Constr. Co. v. California Coastal Comm'n* (1979) 95 Cal.App.3d 471 (contractor who was issued building permits for construction of a condominium project, who performed substantial work and incurred substantial liabilities in reliance on the permit prior to enactment of the California Coastal Zone Conservation Act of 1972 had acquired a vested right to an exemption from the permit requirements of the act and did not lose that right under the act when the building permits lapsed where contractor did not abandon or relinquish its vested right). In CVR's case, its vested right is based upon issuance of annual business licenses from 2009 – 2012 and its continued operation of the same business during that time. Thus, it is unlikely that even a change in the underlying regulations would justify expiration of CVR's vested right.

Additional Applicable Policies

California courts have announced various other rules to protect property owners and operators from losing the right to continue to conduct business as they have in the past. For example, *City of Claremont v. Kruse* (2009) 177 Cal.App.4th 1153, 1178-1179 explained that although zoning ordinances may not operate retroactively to divest a permittee of vested rights previously acquired, a new ordinance may operate retroactively to nullify a permit already issued if the applicant has not already engaged in substantial building or incurred expenses in connection therewith.⁶ Of course, CVR has not only operated pursuant to a validly issued business licenses since 2009, but it has also expended nearly \$500,000 specifically for the scrap metal aspect of its business in reliance on the licenses.

Finally, the vested rights doctrine is predicated upon the principal of equitable estoppel, which may be applied against the government where justice and fairness require. "An equitable estoppel requiring the government to exempt a land use from a subsequently imposed regulation must include (1) a promise such as that implied by a building permit that the proposed use will not be prohibited by a class of restrictions that includes the regulation in question and (2) reasonable reliance on the promise by the promisee to the promisee's detriment. [Citation.]" *Hermosa Beach Stop Oil Coalition v. City of Hermosa*

⁶ In *City of Claremont*, at the time the city enacted a moratorium related to medical marijuana dispensaries, the defendants' applications for a business license and permit had already been denied. The Court of Appeals found that substantial evidence supported the trial court's finding that defendants did not incur substantial expenses prior to the denial of their applications and that after the city denied defendants' applications for a business license and permit, and after city representatives told defendants that their proposed use would not be permitted, defendants commenced operating a medical marijuana dispensary without a license or permit, in violation of the city's municipal code. Thus, the Court of Appeal held that neither the issuance of the injunction nor the dismissal of defendants' administrative appeal deprived defendants of any vested right.

Thomas Boze
April 16, 2013
Page 6 of 6

Beach (2001) 86 Cal.App.4th 534, 551-552. Under the circumstances of CVR's case, justice and fairness require that the County be estopped from refusing to issue the renewal business license. From 2009 – 2012, the County issued business licenses to CVR. The County's repeated issuance of the licenses is tantamount to promising that CVR will be permitted to continue its operation on the same conditions that it had in the past. Moreover, CVR has expended significant sums of money in reasonable reliance on the business licenses. CVR would be significantly injured if it is required to cease operating the scrap metal recycling aspect of its business.

Conclusion

For the foregoing reasons, we urge the County to abandon the abatement action and issue CVR's business license for both the CRV and scrap metal recycling operations. CVR remains willing to work with the County and neighboring property owners to resolve any outstanding issues.

Very truly yours,

Law Office of Thomas H. Terpstra



Thomas H. Terpstra
Attorney-at-Law

cc: Client
Stanislaus County Environmental Resources, Code Enforcement Unit



THOMAS H. TERPSTRA

ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
578 N. WILMA AVENUE
SUITE A
RIPON, CA 95366

tterpstra@thtlaw.com

RECEIVED
2013 MAY 13 10:43
DEPUTY COUNTY COUNSEL
F209.599.5008

May 8, 2013

Deputy County Counsel Thomas Boze
1010 Tenth Street, Suite #6400
Modesto, California 95354

Re: *Central Valley Recycling*
THT Matter ID: 2886-001

Dear Mr. Boze:

As you are aware, this office represents Central Valley Recycling ("CVR"). On April 16, 2013, we submitted a detailed response to the County's Notice and Order to Abate dated April 2, 2013, which also served as CVR's request for a hearing to dispute the alleged violations described in the Notice and Order to Abate. To date, no hearing has been scheduled. I want to let you know that I will be out of the office on vacation from May 17, 2013 through June 4, 2013, and will be unavailable for any hearings during that time.

While I appreciate Staff's suggestion that my client file an application for a Conditional Use Permit (while suspending recycling activities in the interim), I cannot recommend such an approach to my client. First, we continue to believe that Central Valley Recycling has a vested right to operate at this location for the reasons set forth in our April 16, 2013 letter. Secondly, in light of public statements by both County Staff and elected officials, there is no guarantee that any such application would receive a favorable staff recommendation, or any political support. Accordingly, a solution which would require my client to eliminate more than 20 well-paying jobs for an indefinite period of time is simply untenable.

We would once again reiterate our offer to work toward a resolution of the noise issues, employing the mitigation measures identified by Mr. Bollard, while continuing to work on dust control and other legitimate environmental issues. Rather than embarking on a lengthy and unpredictable planning/environmental process, we could incorporate binding and effective mitigation measures into a settlement agreement with the Code Enforcement Unit, and do so in short order. Thereafter, the project could be monitored as to the effectiveness of the mitigation measures.

My client has demonstrated a willingness to work with the neighborhood as well as County staff, and is committed to making every good faith effort to resolve the outstanding issues. At the same time, we are prepared to defend our property rights with respect to our ongoing operation. We are more than willing to meet with your office and County Planning to continue our efforts

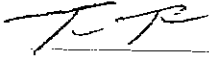
EXHIBIT 20 (191)

Thomas Boze
May 8, 2013
Page 2 of 6

toward a mutually beneficial resolution. Please advise as to whether and when you might be available to meet.

Very truly yours,

Law Office of Thomas H. Terpstra



Thomas H. Terpstra
Attorney-at-Law

THT:rr





STANISLAUS COUNTY COUNSEL

1010 Tenth Street, Suite 6400

Modesto, CA 95354

Phone: 209.525.6376

Fax: 209.525.4473

John P. Doering
County Counsel
Edward R. Burroughs
Assistant County Counsel

DEPUTIES

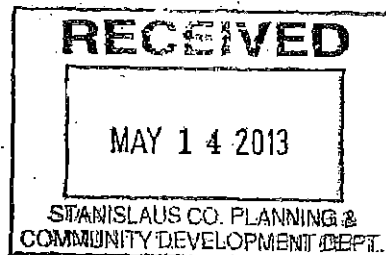
Thomas E. Boze
Vicki F. de Castro
Deirdre E. McGrath
Robin L. McIver
Alice E. Mimms
Maria Elena R. Ratliff
Carrie M. Stephens
Wm. Dean Wright

May 10, 2013

Thomas H. Terpstra, Esq.
578 N. Wilma Avenue, Suite A
Ripon, California 95366

RE: Central Valley Recycling

Dear Mr. Terpstra,



I write in response to yours of April 16, 2013, offering up various reasons why the County must issue a business license to your client. I think I can dispose of this issue simply; your client has no *Avco* type vested right in an expired business license.

Stanislaus County Code Chapter 6.04 requires all businesses operating in the county to obtain a business license. Business licenses are issued for a three year term. To obtain a business license or to renew a license the operator must present an application and pay the required fee.

Issuance of the license is contingent upon compliance with State and local laws and approval of the Department Of Planning And Community Development. Appeal and review of the Planning Department's decision is available by application to the Planning Commission and ultimately by the Board of Supervisors.

The rule in *Avco Community Developers, Inc. v. South Coast Regional comm.*, is predicated on the principle of estoppel. The issuance or renewal of a County business license is contingent. No presumption of renewal is explicit or implied in the County's Code. Therefore, there can be no reasonable reliance on a promise of renewal. Your reliance on *Pardee Construction Co. v. California Coastal Comm.*, for an extension of the *Avco* vested rights doctrine to an expired business license is not well taken. The issues decided by *Pardee* are not on point. Unlike *Pardee*, here there was no promise of renewal for your clients to rely upon and therefore no vested right was acquired.

Your client had the opportunity to appeal the Planning Department's decision not to renew the business license and have that appeal heard by the Planning Commission and ultimately the Board of Supervisors. They failed to exhaust that administrative remedy. As you know, their failure to exhaust is fatal to any judicial review of this administrative decision.

EXHIBIT 21 (pg 1)

STRIVING TO BE THE BEST COUNTY IN AMERICA

Thomas H. Terpstra, Esq.
May 10, 2013
Page Two

Please inform your client that operating without a business license is a violation of Stanislaus County Code, Chapter 6.04, and is a nuisance pursuant to County Code §2.92.010, subd. (D). If they continue to operate without a business license we will take the appropriate administrative actions.

If you have any questions in this regard please contact me at the number above.

Sincerely,
JOHN P. DOERING
County Counsel

By: 
THOMAS E. BOZE
Deputy County Counsel

TEB:tb

c: Angela Frietas, Director Department of Planning and Community Development
Jamie Aggers, Director Department of Environmental Resources

EXHIBIT 21 (pg 2)



COUNTY OF STANISLAUS



NOTICE OF HEARING TO ABATE NUISANCE

TO: Stanley A Goblirsch Joyce O Goblirsch PO BOX 1010 Ceres, CA 95307	RE: File No. DER-CE 12-0224 Assessor's Parcel No. 038-012-009 Address: 0 Bystrum Rd Modesto, CA 95351
---	---

NOTICE IS HEREBY GIVEN TO APPEAR, before the Planning Commission sitting as the Nuisance Abatement Hearing Board on **June 27, 2013** the hour of **6:00 p.m.**, or as soon thereafter as the matter may be heard, in the Joint Chambers, Basement Floor, 1010 Tenth Street, Modesto, CA, then and there to show cause or give legal reason, if any there be, why such conditions listed on **Attachment "A"** should not be condemned as a nuisance and why such nuisance should not be abated by the undersigned enforcement official.

At the time and place specified in this Notice, the Hearing officer or Hearing Board appointed to review the decision of the Director of the responsible County department ordering cessation or abatement of a nuisance occurring at or upon the subject property, shall proceed to hear the testimony of the undersigned enforcement official, his or her deputies, the testimony of the owner or his or her representatives, and the testimony of other competent persons concerning the conditions constituting such nuisance, the estimated cost of abatement and other matters which the Hearing Office or Hearing Board may deem pertinent.

Upon the conclusion of the hearing, a decision will be rendered as to whether substantial evidence supports a determination that a nuisance exists upon the property. If a nuisance is found to exist, the Hearing Officer or Hearing Board may order you to abate the nuisance, prescribing the requirements of such abatement and prescribing a reasonable period of time for the completion of such abatement. Such order may further provide that, in the event that such abatement is not commenced, prosecuted or completed within the terms set in the order, the undersigned enforcement official shall be authorized to abate said nuisance and to recover the costs incurred by the County to abate the nuisance. The materials, equipment, vehicles or other personal property or materials contained in the nuisance abated by the enforcement official may be disposed of in any manner deemed appropriate by the enforcement official, including, but not limited to sale or transfer to another department in the same manner as surplus County personal property, and the proceeds from such sale shall be paid into the County general fund and shall offset the cost of abatement.

For further information concerning this Notice, please contact the Department of Environmental Resources, 3800 Cornucopia Way, Ste C, Modesto, CA 95358 or call (209) 525-6700.

Dated: May 30, 2013

DEPARTMENT OF ENVIRONMENTAL RESOURCES

By 
ROBERT MIRAMONTES
CODE ENFORCEMENT UNIT

Please contact Robert Miramontes at (209) 525-6729 if you wish to attend this hearing.

EXHIBIT 22 (pg 1)

Attachment "A"

RE: File Number CE 12-0224
 Assessor's Parcel Number: 038-012-009
 Address: 0 BYSTRUM RD, MODESTO, CA

Inspection of the above reference property revealed the following violations of Stanislaus County Code §2.92.010:

Code Section Violation:	Corrective Action:	Compliance Date:
§21.56.020 and §21.16.040 of the Stanislaus County Code. Non-Permitted Land Use (scrap metal recycling operation).	Immediately discontinuing the non-permitted land use (scrap metal recycling operation). For information regarding the allowable uses on the property in question, you may consult Stanislaus County Planning and Community Development, located at 1010 10th Street, 3rd Floor, Modesto (209-525-6330).	05/17/2013
§21.56.040(D) of the Stanislaus County Code. No operation (scrap metal recycling operation) shall be conducted on any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke, vibration or electrical interference detectable off the site.	Discontinuing the scrap metal recycling operation which is a nuisance to the public. NOTE: Failure to comply could result in a civil/criminal action being brought against the property owner.	05/17/2013

CC: Central Valley Recycling (CVR), 524 S. 9th St, Modesto, CA 95351
 Donald G. Francis, Business Owner of CVR, 2220 Millcreek Dr, Modesto, CA 95351
 Thomas H. Terpstra, Attorney at Law, 578 N. Wilma Ave, STE: A, Ripon, CA 95366
 Mark Niskanen, JB Anderson Land Use Planning, 139 S. Stockton Ave, Ripon, CA 95366
 Paul Bollard, President of Bollard Acoustical Consultants, Inc., 3551 Bankhead Rd, Loomis, CA 95650
 Angela Freitas, Planning & Community Development Director, 1010 10th St, STE: 3400, Modesto, CA 95354

Enclosures: Stanislaus County Code

9/05/12 letter to Donald Francis from Angela Freitas, Planning & Community Development Director
 02/21/13 letter to Donald Francis from Angela Freitas, Planning & Community Development Director

CE# 12-0224

0 Bystrum Rd

Modesto, CA 95351

Assessor's Parcel Number:

038-012-009

“Central Valley Recycling”

Brief Review

- On June 27, 2013, staff presented their report to the Nuisance Abatement Hearing Board (NAHB).
- Staff's position was that sufficient evidence existed to declare the property a nuisance.
- At that meeting, the NAHB declared the property a nuisance and forwarded the matter to the Board of Supervisors recommending approval (Attachment 1).

Brief Review, cont'd.

- The evidence presented to the NAHB on June 27, 2013, included the following:
 - Maps, Photographs, Exhibits, etc.
- This same evidence is part of the Staff Report before you today.

Brief Review, cont'd.

- The matter was scheduled for the Board of Supervisor's agenda on July 16, 2013. However, on July 3, 2013, the Chairman of the Board received a letter from Thomas H. Terpstra, Attorney-at-Law, representing Central Valley Recycling, requesting that the hearing be scheduled on August 20, 2013.
- At the July 16, 2013 meeting, the Board approved continuing the hearing as requested.

Brief Review, cont'd.

- At the August 20, 2013 meeting, CVR agreed to enter into an agreement with Stanislaus County to curtail the on-site crushing activities to 3 hours a day (11am to 2pm only), while CVR applied for a Use Permit.
- The Board accepted the proposal and requested that the item return to the Board of Supervisor's on September 10, 2013 with a formal agreement developed mutually between CVR and the County.

General Background

- Central Valley Recycling (CVR) is owned & operated by Donald Francis Sr. and Donald Francis Jr.
- CVR is operated on two adjoining parcels, both zoned General Commercial District (C-2).

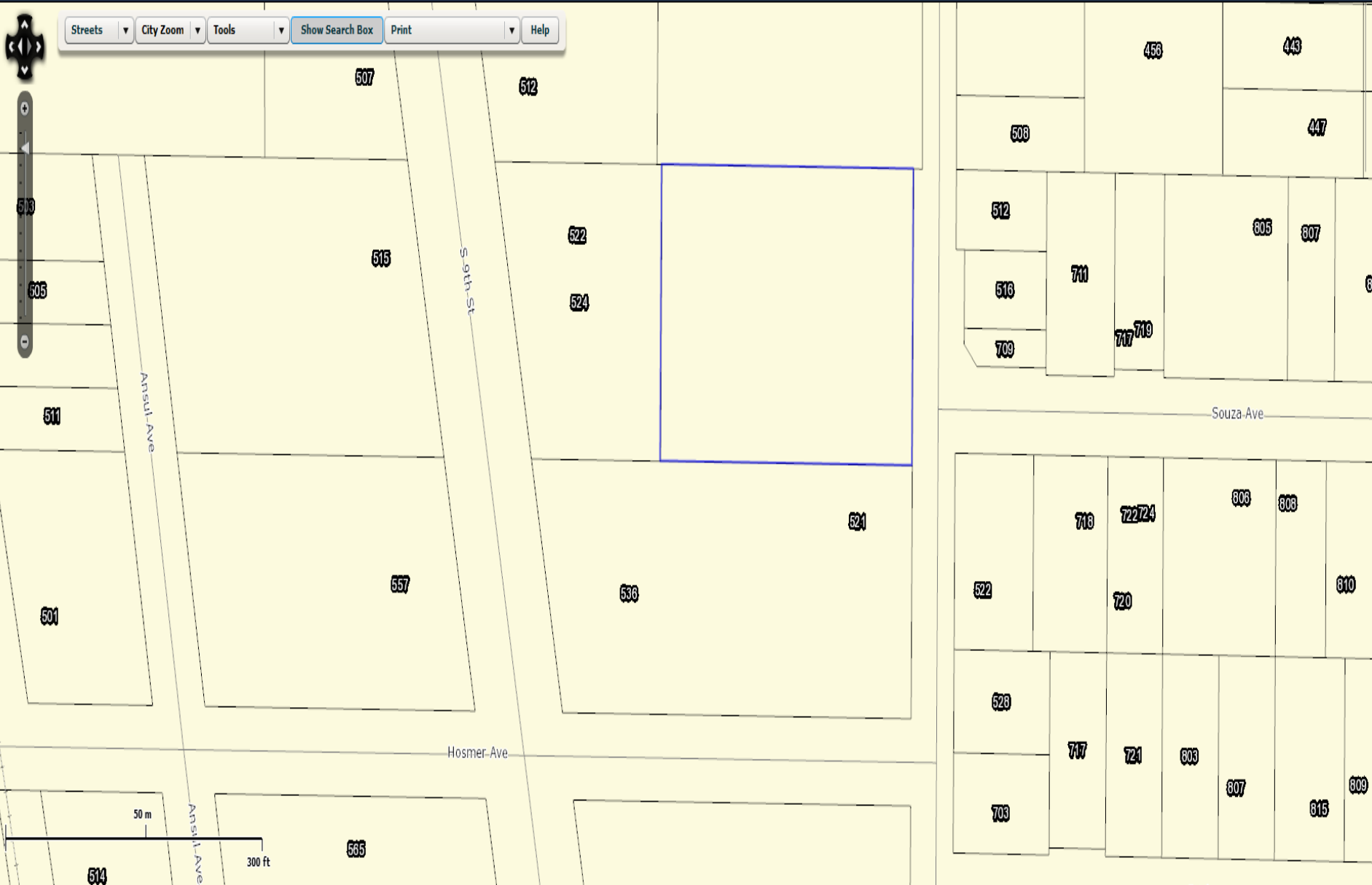
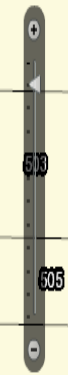
General Background, cont'd.

- The parcels are identified as Assessor's Parcel Number (APN): 038-012-008 (524 S. 9th St, Modesto) and APN: 038-012-009 (0 Bystrum Rd, Modesto).
- According to Assessor's records, both parcels are owned by Stanley and Joyce Goblirsch.

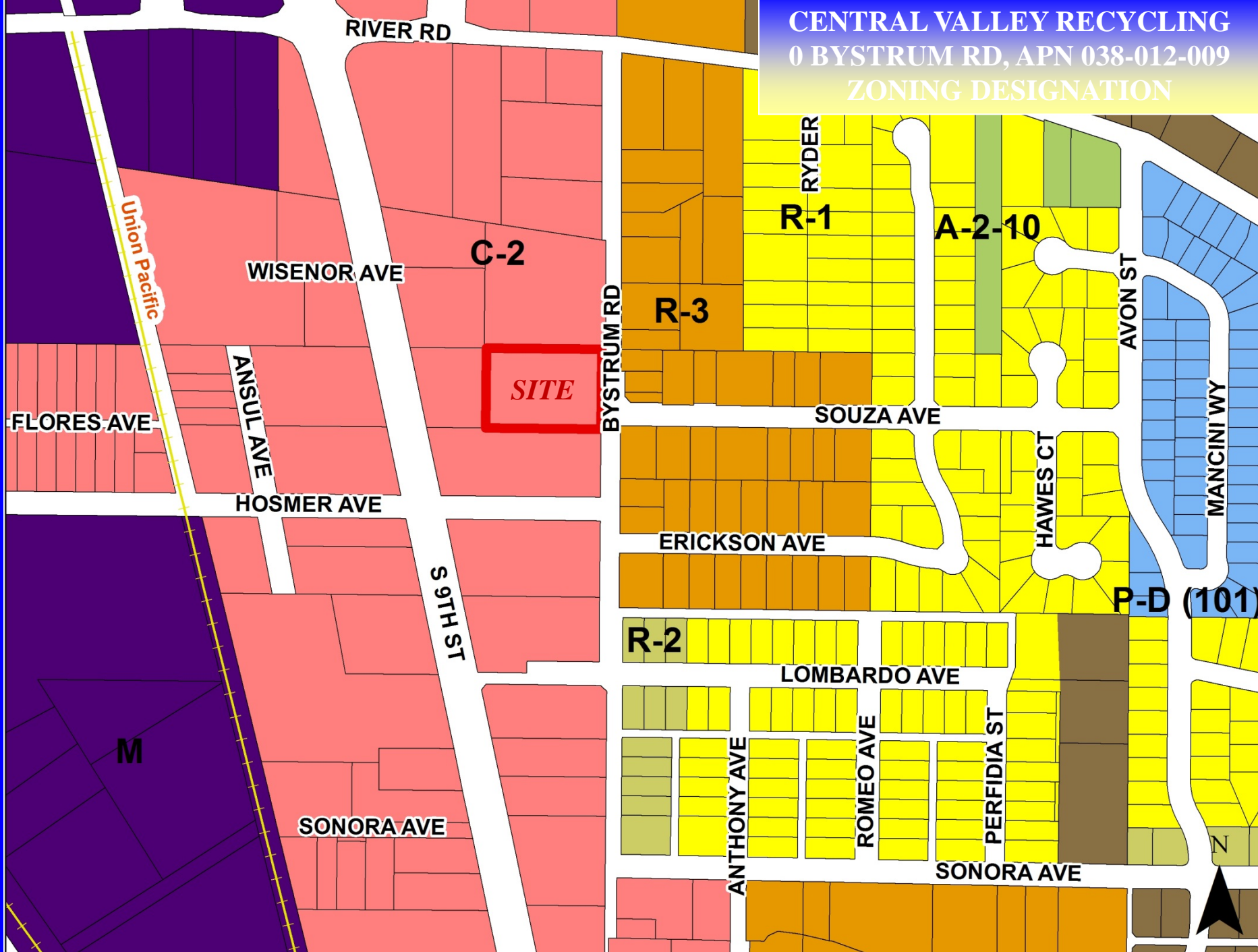
General Background, cont'd.

- APN 038-012-008 is used to collect California Redemption Value (CRV) recycling products. There are no complaints associated with these activities.
- APN 038-012-009 is used to collect scrap metal items. This portion of the business, and the operating practices employed by the operator, have resulted in noise and air quality complaints.

Streets City Zoom Tools Show Search Box Print Help



CENTRAL VALLEY RECYCLING
0 BYSTRUM RD, APN 038-012-009
ZONING DESIGNATION



Union Pacific

SITE



Code Enforcement

- In response to a complaint regarding a non-permitted land use, Code Enforcement staff conducted an inspection and later issued a Notice & Order to Abate on April 2, 2013, for the following alleged violations:

Code Enforcement, cont'd.

(1) County Code §21.56.020 and §21.16.040: Non-Permitted Land Use (scrap metal recycling operation).

(2) County Code §21.56.040(D): No operation shall be conducted in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke, vibration or electrical interference detectable off the site.

8



11/07/2012

14

COIZA AVE 700
BYSTRUM RD 550

STOP

04/02/2013



Staff Recommendation:

- Adopt the recommended decision of the Nuisance Abatement Hearing Board regarding nuisances at 0 Bystrum Road, Modesto, California, as set forth in Attachment 1.

Or

- Counsel is prepared to address the settlement agreement.

Additional Site Maps

CENTRAL VALLEY RECYCLING
0 BYSTRUM RD, APN 038-012-009
2010 STANISLAUS COUNTY
AERIAL



SITE



S 116 ST

HOSMER AVE

BYSTRUM RD

ERICKSON AVE

SOUZA AVE

RYDER WY

MONTAGUE CT

MONTAGUE AVE

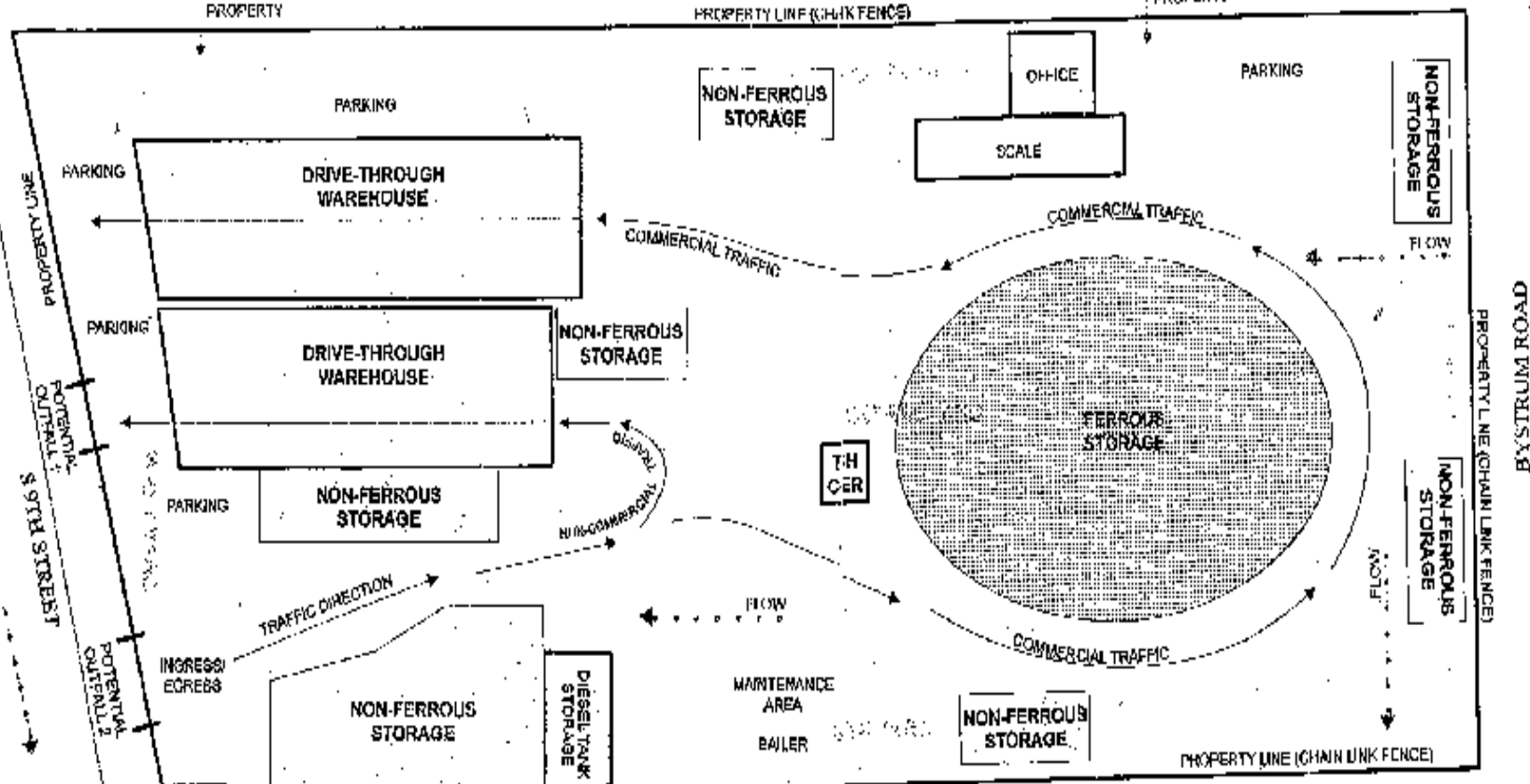


RUN FROM
ADJACENT
PROPERTY

FILE COPY

FILE COPY

RUN ON FROM
ADJACENT
PROPERTY



MAP DATA AND PROJECT STATISTICS:

INFORMATION DEPICTED IN THIS MAP IS DERIVED FROM FIELD OBSERVATIONS MADE BY H2E CONSULTING ON JULY 16, 2012, IN INFORMATION PROVIDED BY CENTRAL VALLEY RECYCLING AND AVAILABLE AERIAL IMAGES AND GIS DATA.

JURISDICTION: COUNTY OF STANISLAUS

SITE ZONING: INDUSTRIAL

R/W/C/E: CENTRAL VALLEY REGION 5

0 62.5 125 187.5

STORAGE INVENTORY DESCRIPTION:

- CRY ALUMINUM CANS
- PLASTIC (HDPE)
- GLASS
- ALUMINUM
- BRASS
- COPPER
- RADIATORS
- STAINLESS STEEL
- BATTERIES
- INSULATED WIRE
- CARDBOARD (PAPER)
- E-WASTE



150

1" = 150'



H2E CONSULTING

FACILITY MAP

CENTRAL VALLEY RECYCLING
MORISTO, CA

DATE: 10/20/12 QUALITY CONTROL: [blank]
REV. 0 APPR: [blank]

Questions?