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01-AFC-3C

DATE MAY 24 2012

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Bruce Boyer
Compliance Project Manager
California Energy Commission
1516 Ninth Street, MS 2000
Sacramento, CA 95814

Re: Russell City Energy Center 01-AFC-7C
Petition for Modification No. 3

Dear Mr. Boyer:

On behalf of Russell City Energy Center, LLC, we are submitting this Petition for Modification No. 3 for the Russell City Energy Center project (01-AFC-7C). By this amendment, Russell City Energy Center, LLC proposes to use an additional area for construction parking and laydown.

If you have any questions, please contact me at (916) 447-2166.

Sincerely,



Greggory L. Wheatland

GLW/kam
enclosure

Russell City Energy Center

(01-AFC-7C)

Petition for Modification No. 3

Submitted by

Russell City Energy Company, LLC

May 2012

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1.0 INTRODUCTION

1.1 Overview of Amendment

The Russell City Energy Center project (RCEC) is an approximately 600 megawatt (MW) natural gas-fired, combined-cycle electric generating facility located in the City of Hayward in Alameda County. This project was certified in September 2002, and received an amended approval in October 2007. A petition to extend commencement of construction deadline by one year, from September 10, 2007, to September 10, 2008, was approved on August 29, 2007, and a petition to extend commencement of construction deadline by two years, from September 10, 2008 to September 10, 2010, was approved on July 30, 2008. On August 10, 2011, the CEC approved an amendment, which among other modifications, authorized the addition of four new parcels as construction worker parking and construction laydown areas. Construction of RCEC began November, 2010. .

By this amendment, Russell City Energy Center, LLC proposes to use an additional area for construction parking and laydown. This area, the Winton Parking/Laydown Area, is located approximately 1 mile north of the plant site, at 2885 West Winton Avenue. (See Figure 1) The Winton Parking/Laydown Area consists of six vacant parcels, totaling 15 acres. The Winton Parking/Laydown Area is fully graveled and currently available for lease. No debris removal, ground clearing or grading will be required prior to use. No biological impacts will result from use of this parcel. The parcel may be used until commercial operation of RCEC, expected in June 2013.

Additional parking and laydown space is necessary to support construction activities. The addition of laydown will permit temporary placement of materials in this laydown area instead of within the confines of the project site and allow for receipt of materials as ready instead of “just in time”. Additional parking is necessary based on current craft manpower requirements, and will supplement a successful implementation of a vanpool program. These proposed changes are based on information that became known to the petitioner after the project was certified, and because additional property is now available for lease that was not previously available.

1.2 Summary of Environmental Impacts

Section 1769(a)(1)(E) of the CEC Siting Regulations requires that an analysis be conducted to address any potential impacts the proposed revisions may have on the environment and proposed measures to mitigate significant adverse impacts. Section 1769(a)(1)(F) requires a discussion of the impact of proposed revisions on the facility’s ability to comply with applicable laws, ordinances, regulations, and standards (LORS). Section 3.0 of this document discusses the potential impacts of the Amendment on the environment, as well as a discussion of the consistency of the requested change with LORS. Section 3.0 concludes that there will be no significant adverse environmental impacts associated with this Amendment and that the project, as amended, will comply with applicable LORS.

1.3 Consistency of Amendment with License

Section 1769(a)(1)(D) of the CEC Siting Regulations requires a discussion of the Amendment’s consistency with applicable LORS and whether the modification being

sought is based on new information that changes or undermines the assumptions, rationale, findings, or other basis of the final decision. If the project is no longer consistent with the license, an explanation of why the modification should be permitted must be provided. The changes proposed herein are consistent with the project's CEC license and relevant LORS. These proposed changes do not undermine any basis for the CEC's licensing decision.

2.0 DESCRIPTION OF PROJECT AMENDMENT

Consistent with the California Energy Commission Siting Regulations Section 1769(a)(1)(A) and (B), this section includes a complete description of the proposed project modification as well as the necessity for the Amendment.

In its Final Decision in 2002, the California Energy Commission approved three construction laydown/parking areas totaling approximately 25 acres. In September 2007, the CEC approved Amendment 1 which relocated the site and amended the approved laydown/parking areas, for a total of 8.8 acres for parking and laydown. In August 2010 via Amendment 2, the CEC approved changes in the parcels to be used for parking and laydown for a total addition of 8.06 acres, and a new grand total of 16.86 acres for parking and laydown.

By this application, RCEC proposes to add another construction parking/laydown area located approximately 1 mile north of the plant site, at 2885 West Winton Avenue for additional material storage and/or craft parking. (See Figure 1) The Winton Parking/Laydown Area is a vacant 15 acre area, fully graveled and currently available for lease. No debris removal, ground clearing or grading will be required prior to use. Material expected to be stored in this location include: pipe spools and piping components, cable tray and conduit, scaffolding, duct work, structural steel and, fiberglass cooling tower members and components. This space will be needed for approximately 6 months. Parking for up to 300 vehicles will be included but segregated from the material storage area by temporary fencing.

The property consists of an approximately 15-acre "U"-shaped parcel that is fenced on all sides. There are two entry gates along the southern boundary of the property along Winton Avenue. The property between the two entrance gates is currently used as an automobile scrap yard. Industrial buildings and business parks are located to the north, east and south of the property, with a landfill located on the western side of the site.

2.1 Winton Parking/Laydown Area

A search of the City of Hayward land use database identified the specific assessor's parcel numbers associated with the proposed Winton Parking/Laydown Area:

APN	Size (acres)	Zoning	General Plan
438-0030-001-02,;	1.05	Industrial	Industrial Corridor
438-0030-001-03,	4.49	Industrial	Industrial Corridor
438-0030-001-04	3.71	Industrial	Industrial Corridor
438-0030-006;	0.2	Industrial	Industrial Corridor
438-0030-009-02	3.58	Industrial	Industrial Corridor
438-0030-015	2.05	Industrial	Industrial Corridor
Total	15.08		

A zoning map of the project area (see Figure 2) shows that the site is located in an area characterized by industrial use and bounded by a landfill on the west.

Equipment or materials brought to the site for storage will arrive via truck and offloaded onto the property. The construction Storm Water Pollution Prevention Plan for

Construction Activities (SWPPP) is in place and the NOI will be amended prior to use of the property. Best Management Practices already incorporated into the SWPPP will be utilized on this additional laydown area. The Applicant's approved SWPPP will be implemented pursuant to Condition of Certification S&W-2.

2.2 Necessity of Proposed Amendment

Sections 1769(a)(1)(B) and (C) of the CEC Siting Regulations require a discussion of the necessity for the proposed revisions to the Russell City Energy Center Project and whether the revisions are based on information known by the petitioner during the certification proceeding.

Additional parking and laydown space is necessary to support construction activities. Addition of laydown will permit placement of materials in laydown instead of within the confines of the project site and allow for receipt of materials as ready instead of “just in time”. Additional parking is necessary based on current craft manpower requirements to meet the planned commercial operation date and despite successful implementation of a vanpool program.

3.0 ENVIRONMENTAL ANALYSIS OF THE AMENDMENT

This section examines whether the additional parking and laydown area set forth in this Amendment may result in additional environmental impacts. An environmental analysis for the modification identified in this Amendment is included below. The analysis concludes that with the proposed mitigation measures, there will be no significant adverse environmental impacts associated with this Amendment and that the project, as amended, will comply with all applicable LORS. Photos to support the assessment are included in Attachment 1.

3.1 Air Quality

The addition of the proposed Winton Parking/Laydown Area will not require any construction activities. No excavation, clearing or grading which can be sources of fugitive dust will occur; the site is completely stabilized with gravel (See Photo 1). Minor amounts of diesel exhaust may occur with the use of equipment to load/unload material to be stored in this area. All activities at the site will be conducted in accordance with the Air Quality Construction Mitigation Plan being implemented per the requirements of Condition of Certification AQ-SC2. Use of the proposed Winton Parking/Laydown Area will not result in a cumulative increase in air emissions sufficient to create a significant air quality impact.

3.2 Biological Resources

A survey of the property was conducted by Russell Huddleston, the designated biologist for the project, on May 18, 2012. His report is set forth in Attachment 2. Mr. Huddleston reports:

“The majority of the property is characterized by leveled and compacted gravels. There is a small concrete pad near the northwestern part of the property. With the exception of weedy vegetation along portions of the perimeter fencing and two low drainage areas in the northwest corner of the property and the western side of the southeast part of the property, the site is devoid of vegetation. Ruderal vegetation along the fences includes species such as wild oat (*Avena barbata*), wild radish (*Raphanus sativus*), black mustard (*Brassica nigra*), smilgrass (*Piptatherum miliaceum*), fennel (*Foeniculum vulgare*) and mallow (*Malva* sp.). Also present in some areas are small coyote bush (*Baccharis pilularis*) shrubs. A few large eucalyptus trees are present along Winton Avenue on the south side of the property. The two storm water drainage areas located in the corners of the property are characterized by species such as wild oat, fennel, Italian ryegrass (*Lolium multiflorum*), curly dock (*Rumex crispus*) and bristly ox-tongue (*Picris echioides*). The drainage areas contain grated catchment basins to collect storm water runoff (see photo below).

“There were no birds or other wildlife observed on the site at the time of the survey. No special-status species and no habitat for such species were observed during the site visit and none are likely to occur on the site in the future.

“In summary, no biological issues or concerns were identified on the site and no additional biological surveys are needed.” Periodic Inspection will be conducted consistent with the requirements of Condition of Certification BIO-2.

3.3 Cultural Resources

The soil that is on the two parcel sites has been highly disturbed and previously developed. The site is completely stabilized with gravel and no further development or ground disturbance is needed for the proposed use because the site will only be used for parking and/or to store equipment, material and supplies. Therefore, use of the proposed Winton Parking/Laydown Area for parking and/or laydown will not result in any cultural resource impacts. There will be no need to add this area to the scope of the Cultural Resource Monitor for inspection in accordance with Condition of Certification CUL-6

3.4 Paleontological Resources

The soil that is on the site has been highly disturbed and previously developed. The site is completely stabilized with gravel and no ground disturbance is required to prepare the site for use. Since the site will only be used for parking and/or to store equipment and supplies, there will be no ground disturbance related to its use. Use of the proposed parking laydown area will not result in any impacts to paleontological resources.

3.5 Land Use

The proposed Winton Parking/Laydown Area is located within a general area of industrial uses (see Figure 2 in Section 2.0). As previously mentioned, this property is located within an industrial zoned area. The land use designation is industrial. The nearest residential area is located approximately 0.7 miles north of the proposed laydown area. The site is owned by Hayward Associates, LLC and PNM Properties LLC and will be used on a temporary basis during the construction phase of the RCEC project. The parking/laydown area will be returned to Hayward Associates, LLC and PNM Properties LLC in its existing condition once construction is complete. Therefore, no impacts to land use will occur and use of the laydown area is consistent with all applicable LORS.

3.6 Noise

The use of the Winton Parking/Laydown Area will result in temporary and minor noise impacts, mainly resulting from the use of equipment loading or offloading materials and supplies. Noise will be mitigated by the existing 9' block wall on the west property line and portions of the east and southern boundary. Any additional noise impacts resulting from the use of the parking / laydown area will be short-term and less than significant. Use of the laydown area will comply with all applicable LORS. (See Photo 2)

3.7 Public Health

Use of the proposed parking/laydown area will include craft parking areas and storage of equipment and materials for construction of RCEC. Transport of equipment and material to and from the laydown area will be done in such a manner as to comply with applicable LORS and existing Conditions of Certification. No acutely hazardous materials will be stored onsite during construction.

3.8 Worker Safety & Health

Use of the proposed parking/laydown area will not result in worker safety and health impacts any greater than those analyzed by the CEC during licensing, since these

construction activities would be subject to the same training, plans, and practices as those required for all other construction activities. Additionally, a shuttle or bus will be provided for workers using the proposed parking area which will deliver the workers directly to the project site; thus workers are not exposed to vehicular traffic or required to walk long distances to get to the jobsite.

3.9 Socioeconomics

Use of the proposed Winton Parking/Laydown Area will result in only minor construction efforts (such as erection of temporary fencing or screening material) related to preparing the site for use as a laydown area. Use of the site for material storage or parking will not alter the basis of the CEC's decision for the project.

3.10 Agriculture & Soils

The proposed Winton Parking/Laydown Area will not result in any impacts to agricultural and soil resources, as the entire site is zoned industrial and currently graveled for use consistent with the proposed use. No special activities are required for use or subsequently to return it in its current condition once use of the Winton Parking/Laydown Area is completed. Storm water BMPs and fugitive dust control, consistent with those already in place will be used as needed. Therefore, the activities proposed in this Amendment will not create a significant adverse impact to agricultural or soil resources.

3.11 Traffic & Transportation

Use of the proposed Winton Parking/Laydown Area as a parking/laydown area will require the transport of materials to and from the site on public roads during the period of use of the laydown area. However, the number of trips is not increased over the original assessment and delivery of equipment from the laydown to the project site will be in accordance with the approved route and the transportation plan developed in accordance with existing Condition of Certification TRANS-1.

Establishing craft parking in the proposed Winton Parking/Laydown Area will reduce the number of trips in the immediate vicinity of the project site by limiting the number of craft vehicles traveling to that location. Use of a shuttle from the Winton Parking/Laydown Area to the site is consistent with the commitment to encourage car or van pooling.

The activities proposed in this Amendment will not create a significant adverse impact to traffic and transportation resources.

3.12 Visual Resources

The Winton Parking/Laydown Area is similar in nature to the current laydown areas approved in the Final Decision and the subsequent laydown areas approved in Amendments #1 and 2. As is the case for these other laydown areas, use of the Winton Parking/Laydown Area is temporary and activities on the property will have little effect on the overall character and quality of the area in which it is located. Further, much of the site is bounded by 9 foot tall concrete block walls which provide screening on the west sides and portions of the east and south. Another significant portion of the property perimeter is fenced with metal panels or slated chain link fence. Chain link with no screening is provided on the remaining portions of the perimeter. See Figure 3. Primary viewers of the proposed site are motorists traveling on Winton Road. See Attachment 1,

Photos 1-6. For these reasons, use of this area will not result in any significant impacts to visual resources. In order to comply with existing Condition of Certification VIS-1 screening will be provided on the chain link fence consistent with the screening plan or alternatives, as approved by CPM.

3.13 Hazardous Materials Management

The proposed area will be used for the temporary storage of materials and equipment, and craft parking. No hazardous materials will be stored at this location. Therefore, use of the Winton Parking/Laydown Area will not result in any hazardous material impacts different from those analyzed by the CEC during licensing of the project.

3.14 Waste Management

Use of the proposed Winton Parking/Laydown Area will not result in waste management impacts any different than those analyzed by the CEC during licensing of the project. Any waste generated in the proposed area will be managed in accordance with the Construction Waste Management Plan developed in accordance with Condition of Certification WASTE-2.

3.15 Water Resources

Use of the proposed Winton Parking/Laydown Area will not result in water resource impacts.. The site will be monitored for compliance with the General NPDES Permit for Storm Water Associated with Construction Activity and the SWPPP. Controls have already been established by the property owner. The site is relatively level with a stabilized, compacted gravel surface and two retention basins on the site. [See Attachment 1, Photos 1, 5 and 6] Both basins are heavily vegetated and stable.

3.16 Geologic Hazards and Resources

Use of the proposed Winton Parking/Laydown Area will not result in geologic impacts because the site will not result in ground disturbance.

3.17 Cumulative Impacts

Because this Amendment focuses on the use of an existing vacant site in an industrial zone as a temporary additional parking and laydown area, no significant impacts have been identified from the proposed Amendment. Therefore, this Amendment will not result in a significant cumulative impact.

3.18 Laws, Ordinances, Regulations, Standards

The Final Decision certifying the Russell City Energy Center found the project to be in compliance with applicable LORS. As described in this Amendment, the use of the proposed parking/laydown area is also consistent with all applicable LORS, and the Amendment will not alter the assumptions or conclusions made in the CEC's Final Decision for the Russell City Energy Center.

4.0 PROPOSED MODIFICATIONS TO THE CONDITIONS OF CERTIFICATION

Consistent with the requirements of CEC Siting Regulations Section 1769(a)(1)(A), potential modifications to the project's Conditions of Certification were evaluated. Russell City Energy Center, LLC does not anticipate that any modifications to the Conditions of Certification will be required and that the Conditions of Certification that applied to the previously approved laydown areas will also apply to the proposed Winton Parking/Laydown Area.

5.0 POTENTIAL EFFECTS ON THE PUBLIC

Consistent with CEC Siting Regulations Section 1769(a)(1)(G), this section discusses the proposed project modification effects on the public. The proposed project modifications contained in this Amendment are short-term in nature, will have no significant impacts on the environment, and will be in compliance with all applicable LORS and Conditions Certification. Accordingly, there will be no adverse impacts on the public associated with this Amendment.

6.0 LIST OF PROPERTY OWNERS

CEC Siting Regulations Section 1769(a)(1)(H), requires a list of the property owners potentially affected by the proposed addition of the Winton Parking/Laydown Area. The list has been provided separately to the CPM.

7.0 POTENTIAL EFFECTS ON PROPERTY OWNERS

Consistent with CEC Siting Regulations Section 1769(a)(1)(I), this section addresses potential effects of the proposed Amendment on nearby property owners, the public, and parties in the application proceeding. Due to the short-term nature of the modification proposed by this Amendment, there will not be any significant impacts to nearby property owners and the public. During the use of the Winton Parking/Laydown Area, very minor amounts of diesel exhaust and vehicle noise will occur. Nearby businesses are not expected to be impacted by use of the parking laydown area.

Use of the Winton Parking/Laydown Area will be done in compliance with Condition of Certification AQ-SC3 to mitigate any diesel emissions from the use of construction vehicles and equipment on the laydown area. Any transport of materials to or from the construction site to the laydown area will be conducted in compliance with applicable LORS and practices already in place for current laydown areas on Depot Road and Enterprise Avenue.

FIGURE 1 Location of Proposed Winton Parking/Laydown



FIGURE 2A Zoning in vicinity of proposed Winton Avenue Parking/Laydown



FIGURE 2B Zoning in vicinity of proposed Winton Avenue Parking/Laydown

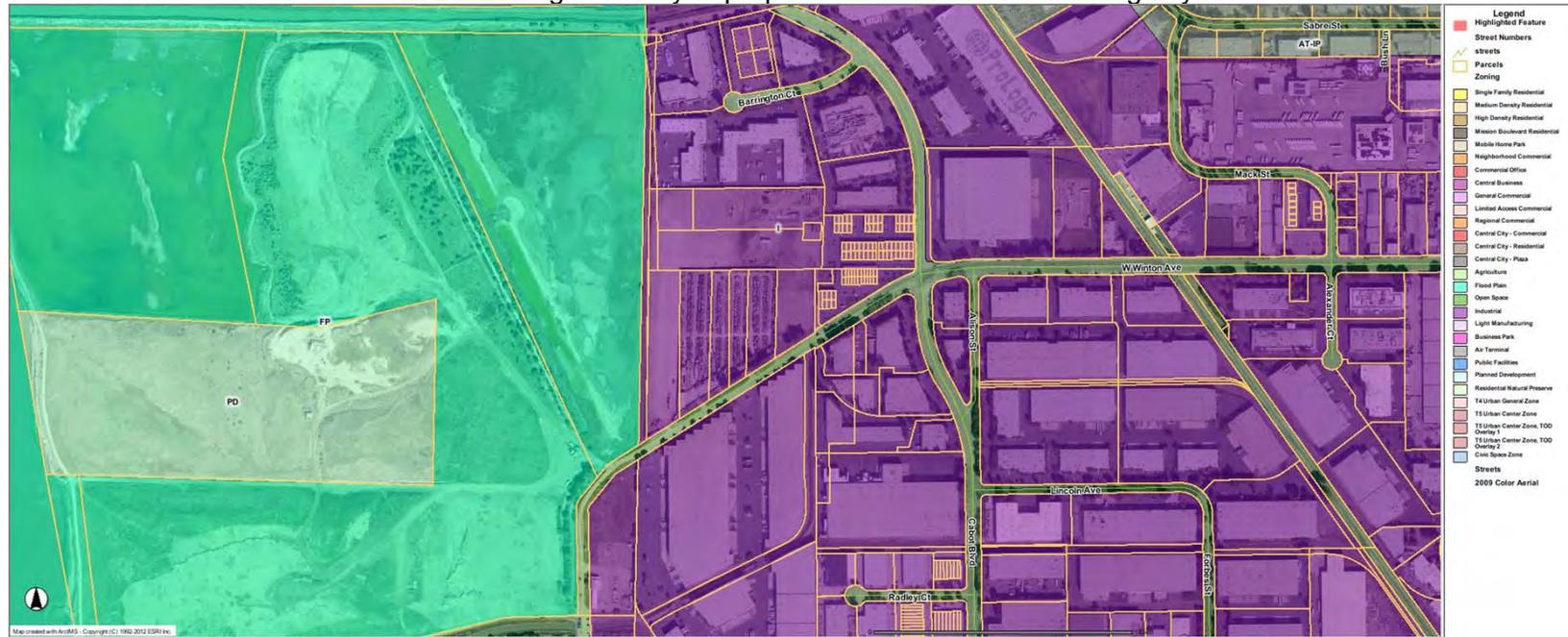


FIGURE 3 Existing Visual Screening



ATTACHMENT 1
Views of Proposed Winton Parking/Laydown Area



Photo 1 – Graveled Parking/Laydown Area



Photo 2 – Nine foot tall Block wall



Photo 3 – Nine foot tall steel panel fence



Photo 4 East entrance to Winton Parking/Laydown Area



Photo 5 – Vegetated Storm Water Basin (near east entrance)



Photo 6 – Vegetated Storm Water Basin North West Corner

Russell City Energy Center Additional Laydown and Staging Area

TO: Allison Bryan/Russell City Energy Company, LLC
COPIES: Karen Parker/CH2MHILL
FROM: Russell Huddleston/CH2MHILL
DATE: May 23, 2012

The Russell City Energy Center construction project is looking to lease the property located at 2885 Winton Avenue in Hayward, California as an additional laydown and staging area. A survey of the property was conducted by Russell Huddleston, the designated biologist for the project, on May 18, 2012. This memorandum provides a summary of the findings. A site map and photographs are provided as attachments.

The property consists of an approximately 15-acre "U"-shaped parcel that is fenced on all sides. There are two entry gates along the southern boundary of the property along Winton Avenue. The property between the two entrance gates is currently used as an automobile scrap yard. Industrial buildings and business parks are located to the north, east and south of the property, with a landfill located on the western side of the site.

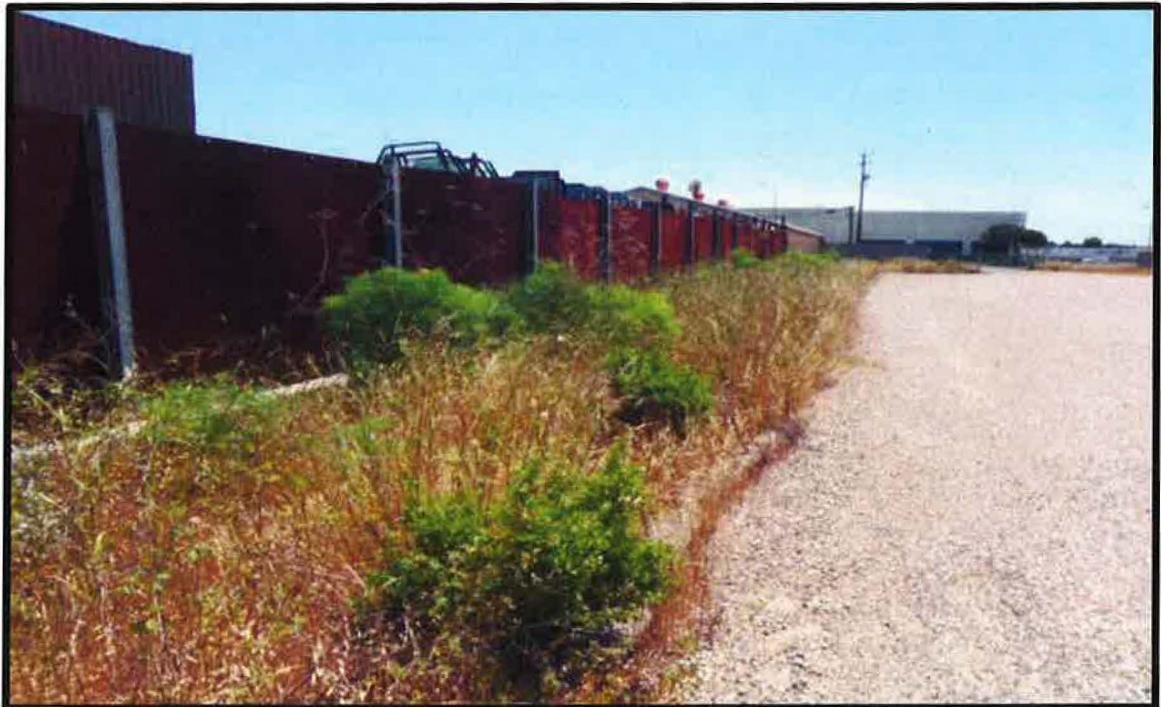
The majority of the property is characterized by leveled and compacted gravels. There is a small concrete pad near the northwestern part of the property. With the exception of weedy vegetation along portions of the perimeter fencing and two low drainage areas in the northwest corner of the property and the western side of the southeast part of the property, the site is devoid of vegetation. Ruderal vegetation along the fences includes species such as wild oat (*Avena barbata*), wild radish (*Raphanus sativus*), black mustard (*Brassica nigra*), smilgrass (*Piptatherum miliaceum*), fennel (*Foeniculum vulgare*) and mallow (*Malva* sp.). Also present in some areas are small coyote bush (*Baccharis pilularis*) shrubs. A few large eucalyptus trees are present along Winton Avenue on the south side of the property. The two storm water drainage areas located in the corners of the property are characterized by species such as wild oat, fennel, Italian ryegrass (*Lolium multiflorum*), curly dock (*Rumex crispus*) and bristly ox-tongue (*Picris echioides*). The drainage areas contain grated catchment basins to collect storm water runoff (see photo below). There were no birds or other wildlife observed on the site at the time of the survey. No special-status species and no habitat for such species were observed during the site visit and none are likely to occur on the site in the future. In summary, no biological issues or concerns were identified on the site and no additional biological surveys are needed.



Leveled and compacted gravels characterize the property.



Drainage in the northwestern corner of the property



Weedy vegetation along the eastern fence line of the site