



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

STAFF REPORT – *INFORMATIONAL ITEM*

TO: CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

HEARING DATE: June 12, 2023

GENERAL INFORMATION

OWNER/

PROPONENT: East Bay Municipal Utility District (EBMUD)

PROPOSAL: Miller Road Trench Soil Removal Project from EBMUD-owned property in Castro Valley. This soil relocation effort will involve continuous trucking during business hours, with the following project proposal:

- The project will remove approximately 17,000 cubic yards of trench soil which is approximately 80 percent less soil compared to the 2019 project.
- During the project, approximately 150 truck round trips per day.
- The project is temporary, lasting approximately 40 days, and is planned for approximately July of 2023 through August of 2023 during the Castro Valley Union School District’s summer break. The work hours are:
 - 9:00 a.m. to 4:00 p.m. Monday through Friday during the Castro Valley Union School District’s summer break
 - 9:00 a.m. to 4:00 p.m. Monday through Friday
- The project will implement a traffic management plan and post traffic signs to encourage safe driving.
- EBMUD will regularly monitor the contractor’s compliance with the above.

**ADDRESS AND
SIZE OF PARCEL:** Miller Road (no address), east side, 475 feet north of Redwood Road in the Castro Valley area of unincorporated Alameda County, with Assessor’s Parcel Number: 085-1000-001-00. The parcel is approximately 430 acres in area.

ZONING: The site is zoned A (Agriculture) District.

**GENERAL PLAN
DESIGNATION:** The site is located within the *Castro Valley General Plan* area, with a land use designation of *Resource Management*. This designation among other uses, public and quasipublic uses, active sand and gravel and other quarries, reclaimed quarry lakes, and similar and compatible uses. Sand and gravel quarries allow a range of uses including sand and gravel processing, associated manufacturing and recycling uses requiring proximity to quarries, reclamation pits, and public use areas. This designation is intended mainly for land designated for long-term preservation as open space but may include low intensity agriculture, grazing, and very low density residential use.

COUNTY JURISDICTION:

EBMUD is claiming exemption from local jurisdiction and oversight, based on California Government Code section 53091 and section 53096:

53091:

(e) Zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, or for the production or generation of electrical energy, facilities that are subject to Section 12808.5 of the Public Utilities Code, or electrical substations in an electrical transmission system that receives electricity at less than 100,000 volts. Zoning ordinances of a county or city shall apply to the location or construction of facilities for the storage or transmission of electrical energy by a local agency, if the zoning ordinances make provision for those facilities.

53096:

(a) Notwithstanding any other provision of this article, the governing board of a local agency, by vote of four-fifths of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property if the local agency at a noticed public hearing determines by resolution that there is no feasible alternative to its proposal. The governing board may not render a zoning ordinance inapplicable to a proposed use of property when the proposed use of the property by the local agency is for facilities not related to storage or transmission of water or electrical energy, including, but not limited to, warehouses, administrative buildings or automotive storage and repair buildings. The governing board of a local agency may make these determinations at the time it approves an environmental impact report on its proposal required by Division 13 (commencing with Section 21000) of the Public Resources Code. Mailed notice of the public hearing shall be provided at least 10 days prior to the hearing, to the owners of all property within 300 feet of the location of the proposed facility and a notice shall be posted in a conspicuous place at the proposed site of the facility. If mailed notice as required above would result in notice to more than 250 persons, as an alternative to mailed notice, notice may be given by placing a display advertisement of at least one-fourth page in a newspaper of general circulation within the area affected by the proposed facility and by posting the notice in a conspicuous place at the proposed site of the facility.

Had EBMUD not been exempted from local jurisdiction per California Government Code section 53091 and section 53096, the use would have been subject to the Alameda County Zoning Ordinance, which considers a public utility building or use to be a Conditionally Permitted activity.

17.06.040 - Conditional uses—Board of zoning adjustments.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses and shall be permitted in an A district only if approved by the board of zoning adjustments, as provided in Sections 17.54.130 and 17.06.010:

- J. Public utility building or uses, excluding such uses as a business office, storage garage, repair shop or corporation yard;

However, those public utility uses that are exempt from local jurisdiction per State legislation are not subject to the County’s Conditional Use Permit process.

Given the California legislation stating that Zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, Alameda County recognizes the exemption from Zoning regulations for EBMUD off-haul operations based on California Government Code section 53091.

ATTACHMENT: June 01, 2023 letter from EBMUD to Alameda County Planning Department



June 1, 2023

Rodrigo Orduña, Assistant Planning Director
Alameda County Planning Department
224 West Winton Avenue, Suite 111
Hayward, CA 94544

Dear Mr. Orduña:

Rodrigo

This letter supersedes my letter from May 30, 2023 with updated project information.

The East Bay Municipal Utility District (EBMUD) is a public agency that maintains over 4,000 miles of water pipelines. To continue providing essential water service to the residents of Castro Valley and nearby areas of Alameda County, EBMUD must regularly replace and repair its pipelines. This process involves removing native soil from pipeline trenches and hauling it to EBMUD's stockpiles. Since 1975, EBMUD has operated a temporary soil stockpile in Castro Valley on Miller Road, approximately two miles north of the intersection with Redwood Road. Stockpiled soil must be removed periodically to maintain capacity for ongoing and future pipeline replacements and repairs.

A soil removal project for the Miller Road stockpile is scheduled between July 10 and August 8, 2023. The timing of this project will allow EBMUD to minimize the costs of this action and undertake it during a time of year that should minimize community concerns. To address community feedback from the 2019 Miller Road project, EBMUD will be implementing reduced work hours and other accommodations. Accommodations for the 2023 Miller Road trench soil removal project include:

- (1) reducing work hours (i.e., 9:00 a.m. to 4:00 p.m. on Mondays through Fridays);
- (2) hauling during Castro Valley Unified School District's summer break (i.e., July and August 2023);
- (3) removing approximately 80 percent less soil compared to the 2019 soil removal project (approximately 17,000 cubic yards will be removed during the above dates);
- (4) implementing a traffic management plan and posting traffic signs to encourage safe driving;
- (5) Using fewer trucks per day (i.e., approximately 150 truck round trips per day); and
- (6) regular monitoring of the contractor's compliance with these restrictions.

These accommodations are intended to make the 2023 project better for the community. EBMUD successfully implemented similar accommodations for a larger-scale soil removal project in the City of Orinda in 2022.

Rodrigo Orduña
June 1, 2023
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EBMUD's Miller Road soil stockpile property is located in Alameda County's "Agricultural" zoning district. The Alameda County Zoning Code does not address the removal of soils or require a conditional use permit for soil removal.

You asked us to cite the code provisions that authorize local agencies like EBMUD to exempt themselves from local zoning regulations. Government Code section 53091 states in part that zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, and Government Code section 53096 allows a local agency to render a city or county zoning ordinance inapplicable to a proposed use of property when the proposed use is related to storage or transmission of water.

EBMUD's pipeline repair and replacement work is critical to ensuring reliable water service in Alameda County, and the 2023 soil removal project is a necessary part of our efforts to maintain and improve water transmission infrastructure.

EBMUD staff are available to present the project to the Castro Valley Municipal Advisory Council at one of its meetings in June to explain the measures we are implementing to address community concerns and to answer any questions or concerns regarding the 2023 soil removal project. We would also like to continue conversations with the County regarding the soil stockpile site and any need for further County authorization of the public utility uses of the site. If you have any other questions regarding this soil removal project or the site in the meantime, please contact Prashay Mehta at (510) 287-1266 or prashay.mehta@ebmud.com.

Thank you for your ongoing assistance with this matter.

Sincerely,



David A. Briggs
Director of Operations and Maintenance
East Bay Municipal Utility District

cc: Michael Ambrose, EBMUD
Prashay Mehta, EBMUD
Casey LeBlanc, EBMUD