



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## Planning Commission Staff Report Agenda Item No. 4 June 11, 2020

**SUBJECT:** Unclassified Conditional Use Permit Application No. 3663

Amend Conditional Use Permit No. 3647 to allow the installation of a new 550-foot by 415-foot (approximately 5.23 acres) covered lagoon dairy digester, and the construction of a 60-foot by 40-foot by 20-foot-tall (2,400 square feet) prefabricated steel mechanical building to house a biogas generator and conditioning equipment, on a 160-acre parcel in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District.

**LOCATION:** The subject parcel is located on the northeast corner of the intersection of West Mount Whitney Avenue and South Bishop Avenue (11720 West Mount Whitney Avenue) (Sup. Dist. 4) (APN 050-260-12S).

**OWNER:** Dry Creek Holdings, LLC  
**APPLICANT:** Wilson Dairy Biogas LLC

**STAFF CONTACT:** Jeremy Shaw, Planner  
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### RECOMMENDATION:

- Accept the Mitigated Negative Declaration previously adopted by the Planning Commission for Initial Study No. 7608, per Section 15162 of the California Environmental Quality Act; and
- Approve Unclassified Conditional Use Permit (CUP) Application No. 3663, amending CUP No. 3647 with recommended Findings and Conditions; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Conditions of Approval and Project Notes
2. Approved Mitigation Measures, Conditions of Approval and Project Notes for CUP No. 3647
3. Location Map
4. Existing Zoning Map
5. Existing Land Use Map
6. Site Plans
7. Elevations
8. Applicant’s Operational Statement
9. Summary of Initial Study No. 7608

**SITE DEVELOPMENT AND OPERATIONAL INFORMATION:**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
General Plan Designation	Agriculture	No change
Zoning	AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District	No change
Parcel Size	160.00 acres	No change
Project Site	160.00 acres; existing dairy operation	Addition of a new 550-foot by 415-foot by 16-foot-deep covered lagoon digester and a 2,400 square-foot prefabricated steel mechanical building to house a biogas generator, blower and chilling equipment; moisture trap on a concrete pad; and a 20-foot-wide by 200-foot-long raised sand lane (previously approved). Utility poles and transformers will also be installed to connect to PG&E facilities.

Criteria	Existing	Proposed
		Proposed improvements will encompass an area of approximately 5.38 acres (234,650 square feet) in the northwest corner of the 160-acre subject parcel.
Structural Improvements	Free-stall barns/exercise pens, mechanical separation/manure drying area, calf pens, shop, open-lot corral, sheds, hay barns, commodity barn, feed storage area, wastewater retention ponds	See above description under Project Site
Nearest Residence	One dwelling unit located on an adjacent parcel approximately 0.63 mile southeast of the proposed digester site	No change
Surrounding Development	Open farmland consisting of sparse residential development, dairies, orchards, field crops and other agriculture-related support operations	No change
Operational Features	Milk is produced and trucked off site for processing into dairy products. The dairy has an approximate herd size of 4,232 cows and produces approximately 178,104 gallons per day total process wastewater, per the waste management plan dated June 26, 2009.	Addition of a covered lagoon anaerobic digester along with biogas conditioning equipment (chiller and condenser) and a generator to be housed in a 2,400 square-foot prefabricated steel mechanical building. The generator will produce electricity for exportation and sale to the PG&E grid; the biogas will be transported by pipeline to a central collection point where it will be upgraded to commercial standards before being injected into the PG&E main gas transmission line.
Employees	Approximately 25	Additional 10-20 employees during the approximately seven-month construction schedule for the proposed

Criteria	Existing	Proposed
		facilities; one employee will make daily facility inspections during operations; no permanent facility employees will work or live on the site
Customers	None	No change
Traffic Trips	Estimated 40 round trips per day associated with the existing dairy operation	Additional 20-27 round trips per day during construction and one additional round trip per day (for facility inspection purposes) during operation
Lighting	Outdoor lighting associated with existing dairy operation	Addition of security lighting on the prefabricated metal generator/biogas equipment building
Hours of Operation	24 hours per day, seven days per week	No change

**EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: N**

**ENVIRONMENTAL ANALYSIS:**

A Mitigated Negative Declaration (MND) was prepared for Initial Study No. 7608 and adopted by the Fresno County Planning Commission in accordance with the California Environmental Quality Act (CEQA) with the approval of Unclassified Conditional Use Permit No. 3647 on August 8, 2019.

Per Section 15162(a) of the CEQA Guidelines, Subsequent EIR's and Negative Declarations:

- (a ) When an EIR or negative declaration (MND) is adopted for a project, no subsequent MND shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:
  - (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in severity of previously-identified significant effects;
  - (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in severity of previously-identified significant effects; or

- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous negative declaration was adopted, shows any of the following:
- (A) The project will have one or more significant effects not discussed on the previous EIR or negative declaration;
  - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The current proposal, Unclassified Conditional Use Permit Application No. 3663 was routed to those agencies that previously reviewed and commented on the Initial Study prepared for CUP No. 3647. No concerns were expressed by those reviewing agencies that would indicate that the preparation of a new Initial Study would be warranted at this time. Therefore, it has been determined that no subsequent Mitigated Negative Declaration shall be undertaken for this project per Section 15162 of the California Environmental Quality Act. A summary of Initial Study No. 7608 is included as Exhibit 9.

**PUBLIC NOTICE:**

Notices were sent to 10 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS:**

An Unclassified Conditional Use Permit may be approved only if five Findings specified in the Fresno County Zoning Ordinance, Section 873-F are made by the Planning Commission.

The decision of the Planning Commission on an Unclassified Conditional Use Permit Application is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

**BACKGROUND INFORMATION:**

Unclassified Conditional Use Permit No. 3647 was previously approved on August 8, 2019 and authorized the conversion of two adjacent wastewater ponds at an existing dairy into a covered lagoon digester, along with the installation of a 2,400 square-foot prefabricated steel mechanical building to house supporting equipment, including a biogas generator and biogas conditioning apparatus (chiller, condenser and moisture trap). The biogas (methane) produced by the dairy operation is transferred to a collection pipeline which would then transport the biogas off site along with biogas from several other participating dairies via a proposed pipeline (authorized by CUP No. 3642) to a central site where the collected gas could be upgraded to commercial

quality natural gas, and injected into the PG&E main gas transmission line for market. Additionally, CUP No. 3647 authorized the installation of several new utility poles and one or more transformers to facilitate the exportation of electrical power, created by burning biogas in on-site generators, to be sold to PG&E through a net metering agreement.

The current application proposes to amend CUP No. 3647 and allow the installation of a new covered lagoon dairy digester in place of the previously-approved digester which was to be converted from two existing wastewater settling ponds, and allow the new digester to be located approximately 250 feet west of the previously-approved location; and allow the previously-approved prefabricated steel mechanical building housing the generator and conditioning apparatus to be located approximately 320 feet north of the previously-approved location.

***Finding 1:** That the site of the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by this Division, to adjust said use with land and uses in the neighborhood*

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	Front (north): Approximately 35 feet Side (west): Approximately 35 feet Side (east): Approximately 2,130 feet Rear (south): Approximately 2,020 feet	Yes
Parking	One parking space for every two permanent employees and one parking space for each company-owned vehicle	No change	Yes
Lot Coverage	No requirement	N/A	N/A
Space Between Buildings	Separation between animal shelter and structures used for human habitation: minimum of 40 feet	No change	Yes
Wall Requirements	No requirements	N/A	N/A
Septic Replacement Area	100 percent of the existing system	No change	Yes
Water Well Separation	Septic tank: 50 feet Disposal field: 100 feet Seepage pit: 150 feet	No changes proposed to water wells or septic systems	Yes

### **Reviewing Agency/Department Comments Regarding Site Adequacy:**

Development Engineering Section of the Fresno County Department of Public Works and Planning: According to FEMA, FIRM Panel 2850J, portions of the subject parcel are subject to flooding from the 100-year (one percent chance) storm event. Any development within the area identified as Zone A must comply with the County Flood Hazard Ordinance (Title 15.48).

Building and Safety Plan Check Section of the Fresno County Department of Public Works and Planning: Plans, permits and inspections will be required for all on-site improvements.

Development Engineering Section of the Fresno County Department of Public Works and Planning: According to FEMA, FIRM Panel 2850J, portions of the subject parcel are within Zone A and subject to flooding from the 100-year storm event. If any development is proposed within the area of the parcel identified as Zone A, such development must comply with the County Flood Hazard Ordinance (Title 15.48).

Records indicate that the subject property is within an agricultural preserve. Typically, any construction or development proposed will require approval from Policy Planning.

No other comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

### **Analysis:**

Unclassified Conditional Use Permit No. 3647 was approved to allow the conversion of two adjacent existing wastewater settling ponds to one 1,630-foot by 125-foot by 25-foot-deep covered lagoon dairy digester located approximately 345 feet south of the northern property boundary, approximately 750 feet east of the western property boundary, 336 feet from the eastern property boundary and more than 2,000 feet from the southern property boundary abutting Mount Whitney Avenue.

The current application proposes to allow the installation (excavation) of a new dairy digester, to be located westerly adjacent to the previously-approved location. The project would entail the excavation of an approximately 228,250 square-foot (5.23 acres) area in the northwest corner of the subject parcel, adjacent to South Bishop Avenue. The dimensions of the proposed digester are 550 feet in length, 415 feet in width, and 16 feet in depth, with a capacity of approximately 21.8 million gallons.

The digester would be located approximately 35 feet from the western property boundary abutting South Bishop Avenue and approximately 35 feet from the northern property boundary abutting private property. The prefabricated steel mechanical building will be located approximately 70 feet from the northern property boundary. The new proposed digester will have approximately 24,500 square feet more surface area and approximately the same liquid volume capacity as the previously-approved design per the Applicant's site plan.

Staff review of the site plan demonstrates that all of the proposed improvements will satisfy the minimum setback requirements from adjacent property boundaries and County road rights-of-way. The subject parcel is adequate in size and shape to accommodate the proposed addition of the proposed digester and 2,400 square-foot prefabricated steel mechanical building.

**Recommended Conditions of Approval:**

See recommended Conditions of Approval attached as Exhibit 1.

**Conclusion:**

Finding 1 can be made.

Finding 2: That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use

		<b>Existing Conditions</b>	<b>Proposed Operation</b>
Private Road	No	N/A	N/A
Public Road Frontage	Yes	South Bishop Avenue	No change
Direct Access to Public Road	Yes	South Bishop Avenue West Mount Whitney Avenue	No change
Road ADT		South Bishop Avenue 400 Mount Whitney Avenue 2,100	No change
Road Classification		South Bishop: Local Mount Whitney: Expressway	No change
Road Width		South Bishop: 20 feet paved	No change
Road Surface		South Bishop: Road Mix Surface (RMS); very poor condition West Mount Whitney: Asphalt Concrete (AC); Excellent condition	No change
Traffic Trips		Estimated 40 round trips per day	Estimated 10-12 one-way employee trips and up to 27 round trip truck trips during construction
Traffic Impact Study (TIS) Prepared	No	A Traffic Impact Study was not required for this project	No change
Road Improvements Required		N/A	Not required at this time



## **Reviewing Agency/Department Comments Regarding Adequacy of Streets and Highways:**

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: Mount Whitney Avenue is a County-maintained road classified as an Expressway, with a 60-foot right-of-way, and a paved width of 31.8 feet with dirt shoulders. Mount Whitney has an Average Daily Traffic (ADT) count of 2,100 vehicles per day (VPD), a pavement condition index (PCI) of 87 (out of 100) and is in good condition.

Bishop Avenue is a County-maintained road classified as a Local road, with a 60-foot right-of-way, and a paved width of 20.10 feet with dirt shoulders. Bishop Avenue has an ADT of 400 VPD, a PCI of 20, and is in poor condition.

Mount Whitney Avenue is classified as an Expressway in the County's General Plan, requiring road right-of-way of 106 to 126 feet. Currently, there is 60 feet of right-of-way on Mount Whitney Avenue, requiring a minimum additional 23 feet along the parcel frontage. Any setbacks for new construction should be based on the ultimate right-of-way for Mount Whitney.

Bishop Avenue is classified as a Local road in the County's General Plan, requiring a right-of-way of 60 feet. Currently, there is 60 feet of right-of-way on Bishop. No additional right-of-way is required on Bishop Avenue.

An encroachment permit is required from the Road Maintenance and Operations Division for any work performed in the County right-of-way, such as a pipeline installation or driveway construction.

All Mitigation Measures, Conditions of Approval and Project Notes from previously-approved CUP No. 3647 and related applications still apply.

Development Engineering Section of the Fresno County Department of Public Works and Planning: Mount Whitney Avenue is classified as an Expressway, with an existing right-of-way of 30 feet north of the section line along the parcel frontage, per the Plat Book. The minimum width for an Expressway right-of-way north of the section line is 53 feet, with a maximum of 63 feet.

Mount Whitney is a County-maintained road, and records indicate that this section of Mount Whitney, from Bishop to Dickerson, has an Average Daily Traffic (ADT) count of 2,100, and a paved width of 31.8 feet.

Bishop Avenue is classified as a Local road, with an existing 30 feet of right-of-way north of the section line along the parcel frontage, per the Plat Book. The minimum width for a Local road right-of-way north of the section line is 30 feet.

Bishop Avenue is a County-maintained road, and records indicate that this section of Bishop, from Mount Whitney to Harlan, has an ADT of 400, a paved width of 20 feet, a structural section of 0.25 RMS/0.5 LTB and is in very poor condition.

No other comments specific to the adequacy of streets and highways were expressed by reviewing Agencies or Departments.

**Analysis:**

The project proposes to install a new lagoon dairy digester on an existing dairy in order to export renewable biogas and electricity produced from the gas into the PG&E grid. CUP No. 3647 was originally approved along with related applications to allow similar facilities at four other participating dairy sites. The collection pipeline that was also approved was evaluated for potential impacts to surrounding streets and highways. It was determined that the County roads serving the subject parcel and other related parcels were adequate in width and pavement to accommodate the additional traffic generated by the proposed use.

Based on the above information, staff has determined that the roads surrounding the subject parcel are adequate in width and pavement type to accommodate the additional traffic generated by the proposed use.

**Recommended Conditions of Approval:**

*None.*

**Conclusion:**

Finding 2 can be made.

*Finding 3: That the proposed use will have no adverse effect on abutting property and surrounding neighborhood or the permitted use thereof*

<b>Surrounding Parcels</b>				
	Size:	Use:	Zoning:	Nearest Residence:
North	480.22 acres	Field crops/Office commercial	AE-20	None
South	596.58 acres	Field crops/Single-Family Residential	AE-40	225 feet
East	480.22 acres	Field crops/Office commercial	AE-20	0.48 mile
West	314.57 acres	Field crops	AE-20	None

**Reviewing Agency/Department Comments:**

Pacific Gas and Electric Company, Plan Review Team – Land Management: This plan review process does not replace the application process for PG&E gas or electric service the project may require. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project as it relates to any rearrangement of new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement may include a California Public Utility Commission (CPUC) Section 851 filing, which requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E’s fee strip or easement. PG&E will advise of the necessity to incorporate a CPUC Section 851 filing.

Fresno County Department of Public Health, Environmental Health Division: The proposed use shall comply with the Noise Element of the Fresno County General Plan and Fresno County Noise Ordinance (Fresno County Ordinance Code Section 8.40).

Within 30 days of the occurrence of any of the following events, the Applicant/operators shall update their online Hazardous Materials Business Plan (HMBP) and site map if:

1. There is a 100% or more increase in the quantities of a previously-disclosed material; or
2. The facility begins handling a previously-undisclosed material at or above the HMBP threshold amounts.

The business shall certify that a review of the business plan has been conducted at least once every year and that any necessary changes were made and that the changes were submitted to the local agency.

All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5. This Division discusses proper labeling, storage and handling of hazardous wastes.

If the anaerobic digester process requires accepting manure or other feedstock from other than their own property, the facility would be subject to the Transfer/Processing Operations and Facilities Regulatory Requirements (Title 14, California Code of Regulations, Division 7, Chapter 3, and Article 6.0-6.35).

The operational statement provided with the application indicates that the separated solids from the anaerobic digester will be disposed at an appropriate landfill. If the facilities change the operations to use the separated solids for composting, prior to the production of compost from operations of the digester, the facility shall apply for and obtain a permit to operate a Solid Waste Facility from the County of Fresno, Environmental Health Division, acting as the Local Enforcement Agency (LEA).

Development Engineering Section of the Fresno County Department of Public Works and Planning: Any improvements constructed within flood hazard Zone 'A' will require pre-construction and post construction elevation certificates prior to the issuance of grading or building permits.

An engineered grading plan and grading permits are required.

Central Valley Regional Water Quality Control Board: Provision G.4 of the Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2013-0122 (Reissued General Order), requires the submittal of a Report of Waste Discharge (RWD) prior to starting discharge associated with a development of any treatment technology, as it is considered a material change in the character and volume of the waste discharge.

The proposed new pond should meet the requirements specified in Pond Specification C.5 of the Reissued General Order.

California Department of Conservation, Division of Oil, Gas and Geothermal Resources: Public Resources Code (PRC) Section 3208.1 establishes well re-abandonment responsibility when a previously-plugged and abandoned well will be impacted by planned property development or

construction activities. Local permitting agencies, property owners, and/or developers should be aware of and fully understand that significant and potentially-dangerous issues may be associated with development near oil, gas and geothermal wells.

The subject parcel is located adjacent to the Helm oil field boundaries. According to Division records there are no wells within the parcel; however, there may be pipelines associated with oil and gas production in the vicinity.

Division records indicate that there are no known oil or gas wells located within the project boundaries, as identified in the application, that are: not abandoned to current Division requirements as prescribed by law and projected to be built over or have future access impeded by this project; have future access impeded by this project; abandoned to current Division requirements as prescribed by law and projected to be built over or have future access impeded by this project; or abandoned to current Division requirements as prescribed by law and not projected to be built over or have future access impeded by this project.

If, during development activities, any wells are encountered that were not part of this review, the property owner is expected to notify the Division's construction site well review engineer in the Inland District office, and file for Division review an amended site plan with well casing diagrams.

San Joaquin Valley Air Pollution Control District: The project will be subject to the following rules: District Regulation VIII (Fugitive PM10 Prohibitions), Rule 4601( Architectural Coatings), Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt Paving and Maintenance Operations) and Rule 4002 (National Emission Standards for Hazardous Air Pollutants) in the event an existing building will be renovated, partially demolished or removed. The project may also be subject to the following rules specific to confined animal operations: Rule 4102 (Nuisance) applies to any source operation that emits or may emit air contaminants or other materials; Rule 4550 (Conservation Management Practices) limits fugitive dust emissions from agricultural operation sites; and Rule 4570 (Confined Animal Facilities) applies to dairies with greater than or equal to 500 milk cows, and requires filing of an application with the Air District.

No other comments specific to land use compatibility were expressed by reviewing Agencies or Departments.

### **Analysis:**

The subject application proposes to amend previously-approved CUP No. 3647, which authorized the conversion of an existing wastewater settling pond to a lagoon digester, and instead allow the installation (excavation) of a new lagoon dairy digester, along with an appurtenant structure and equipment.

The proposed digester will be one of a cluster of five digesters located on separate parcels which will contribute biogas (biomethane) into an underground collector pipeline which will transport the biogas to a central site where it will be compressed and upgraded before it is injected into the PG&E main gas transmission line. Although digesters are typically an allowed use in conjunction with a dairy operation, this proposal is considered commercial in nature, as this project proposes to export the biogas and produced electricity for sale to the PG&E energy grid.

Air Impacts were previously evaluated under Initial Study No. 7608; the Air Quality and Greenhouse Gas Analysis prepared for CUP No. 3647 and the related CUP applications

determined that no District thresholds of significance for criteria pollutants would be exceeded as a result of this project.

For the current application, the Air District evaluated the air quality data that was used previously, with additional data included in consideration of the differences with the current proposal, and determined that the project’s impacts would remain less than significant. The subject application will be subject to all applicable Air District Rules, such as those pertaining to fugitive particulate matter, nuisance odors, confined animal facilities and new and modified stationary source review.

Based on the above analysis, staff believes the proposal will not have an adverse effect upon surrounding properties.

**Recommended Conditions of Approval:**

*See recommended Conditions of Approval attached as Exhibit 1.*

**Conclusion:**

Finding 3 can be made.

*Finding 4:* *That the proposed development is consistent with the General Plan*

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p>General Plan Policy LU-A.13: The County shall protect agricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations.</p>	<p>Land uses in the surrounding area consist predominately of agricultural operations and agricultural support operations. The proposed digester and biogas conditioning and electrical generation facility will meet the minimum setbacks required for the Exclusive Agricultural Zone District.</p>
<p>General Plan Policy LU-A.14: The County shall ensure that the review of discretionary permits include an assessment of the conversion of productive agricultural land and that mitigation be required where appropriate.</p>	<p>The project was evaluated by the Fresno County Agricultural Commissioner’s office, which had no concerns that the project would result in the loss of productive agricultural land. The project proposes to utilize a comparatively small portion of land within the affected parcel for the construction of the digester, electrical generation facilities and ancillary biogas conditioning equipment.</p> <p>The project was also reviewed by the Policy Planning Unit, which determined that the subject parcel is subject to a Williamson Act Contract, and as such, subject to specific criteria therein. Because the proposed anaerobic digester and biogas generator would export renewable energy off site, the proposed use was not considered a compatible use on Williamson Act-restricted land. Accordingly, the portion of the subject parcel to be utilized in the</p>

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
	operation of the digester was subject to recordation of a partial nonrenewal of the Williamson Act contract.
<p>General Plan Policy LU-A.17: The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation. The evaluation shall include the following:</p> <ul style="list-style-type: none"> <li>a. A determination that the water supply is adequate to meet the highest demand that could be permitted on the lands in question. If surface water is proposed, it must come from a reliable source and the supply must be made “firm” by water banking or other suitable arrangement. If groundwater is proposed, a hydrogeological investigation may be required to confirm the availability of water in amounts necessary to meet project demand. If the lands in question lie in an area of limited groundwater, a hydrogeological investigation shall be required.</li> <li>b. A determination of the impact that use of the proposed water supply will have on other water users in Fresno County. If use of surface water is proposed, its use must not have a significant negative impact on agriculture or other water users within Fresno County. If use of groundwater is proposed, a hydrogeological investigation may be required. If the lands in question lie in an area of limited ground water, a hydrogeological investigation shall be required. Should the investigation determine that significant pumping-related physical impacts will extend beyond the boundary of the property in question, those impacts shall be mitigated.</li> </ul>	<p>The subject parcel is not located in an area of the County designated as being water short. The project was reviewed by the Water and Natural Resources Division of the Department of Public Works and Planning, which did not express any concerns with water supply.</p> <p>The Applicant’s operational statement indicates that construction will utilize approximately 20,000 gallons of water per day for the first 20 work days, and approximately 2,000 gallons per day for the remaining 180 days (six months) of construction, based on an estimate of 20 work days per month; a total of approximately two acre feet (640,000 gallons) of water would be needed for construction.</p> <p>Operational water usage is anticipated to be approximately 500 gallons per day or 0.5 acre feet annually, in addition to the normal water use of the existing dairy operation. Water will be provided by an existing on-site agricultural well.</p>

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p>c. A determination that the proposed water supply is sustainable or that there is an acceptable plan to achieve sustainability. The plan must be structured such that it is economically, environmentally, and technically feasible. In addition, its implementation must occur prior to long-term and/or irreversible physical impacts or significant economic hardship to surrounding water users.</p>	
<p>General Plan Policy HS-B.1: The County shall review project proposals to identify potential fire hazards and to evaluate the effectiveness of preventive measures to reduce the risk to life and property.</p>	<p>The Fresno County Fire Protection District did not state any concerns that the project would create any new fire hazards.</p>
<p>General Plan Policy HS-F.1: The County shall require that facilities that handle hazardous materials or hazardous wastes be designed, constructed and operated in accordance with applicable hazardous materials and waste management laws and regulations.</p>	<p>All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5.</p>
<p>General Plan Policy HS-F.2: The County shall require that applications for discretionary development projects that will use hazardous materials or generate hazardous waste in large quantities include detailed information concerning hazardous waste reduction, recycling, and storage.</p>	<p>The proposed biogas cleanup operation will generate approximately 450 pounds of elemental sulfur as a byproduct of the hydrogen sulfide scrubber, which will be utilized as soil amendment off site, or hauled to an appropriate disposal facility.</p> <p>Within 30 days of the occurrence of any of the following events, the Applicant/operator shall update their online Hazardous Materials Business Plan (HMBP) and site map:</p> <ol style="list-style-type: none"> <li>1. There is a 100 percent or more increase in the quantities of a previously-disclosed material;</li> <li>2. The facility begins handling a previously-undisclosed material at or above the HMBP threshold amounts.</li> </ol> <p>The business shall certify that a review of the business plan has been conducted at least once every year and that any necessary changes were made and that the changes were</p>

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
	submitted to the local agency.

**Reviewing Agency Comments:**

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject parcel is enrolled in the Williamson Act Program under Contract No. 7117; pursuant to Land Conservation Act Contract (Williamson Act) Program guidelines, the use of land enrolled in the program is limited to commercial agricultural operations and other compatible uses adopted by the Board of Supervisors. The proposed anaerobic digester, biogas generator and conditioning equipment are not considered compatible uses on land enrolled in the program; therefore, the areas proposed for the anaerobic digester, generator and conditioning equipment must be removed from the program through the nonrenewal process.

No other comments specific to General Plan Policy were expressed by reviewing Agencies or Departments.

**Analysis:**

Dairy digesters are typically allowed at existing dairies without discretionary approval because they are considered incidental to an existing dairy operation, provided they meet certain criteria, particularly that the materials used for the digester process are produced on site and that all improvements associated with the digester are located on site. In this case, the materials (manure) would be produced on site; however, the intent of the digester facility is to export the material off site.

As a point of information, commercial cattle dairies and feedlot facilities have been allowed in the Exclusive Agricultural Zone District with the approval of a Conditional Use Permit since the adoption of the Dairy Ordinance in 2007, which is contained in Section 869 of the County Zoning Ordinance.

The subject parcel is restricted under Williamson Act Contract No. 7117. The proposed digester facility which is intended to generate renewable energy, gas and electricity for sale to the market is not considered a compatible use on land enrolled in the Williamson Act program; as such, the portion of the subject parcel proposed for development of the digester and appurtenant equipment was required to go through the nonrenewal process and record an Irrevocable Notice of Nonrenewal of the Land Conservation Contract on an approximately 9.06-acre portion of the subject property.

Based on these factors, and with adherence to this requirement and all Mitigation Measures, Conditions of Approval and Project Notes for Unclassified Conditional Use Permit No. 3647, this proposal to amend Unclassified CUP No. 3647 and allow the installation of a new anaerobic dairy digester along with the construction of supporting structures and installation of supporting equipment can be found to be consistent with the General Plan.

**Recommended Conditions of Approval:**

*See recommended Conditions of Approval attached as Exhibit 1.*



**Conclusion:**

Finding 4 can be made.

*Finding 5: That the conditions stated in the Resolution are deemed necessary to protect the public health, safety and general welfare*

Per Section 873-F of the Zoning Ordinance, Finding 5 addresses the question of whether the included Conditions can be deemed necessary to protect the public health, safety and general welfare of the public and other such conditions as will make possible the development of the County in an orderly and efficient manner and in conformity with the intent and purposes set forth in this Division. The required Conditions of Approval will be addressed through the Site Plan Review process required for this project. The Site Plan Review process and requirements are contained in Section 874 of the Fresno County Zoning Ordinance.

**Reviewing Agency/Department Comments:**

Refer to comments under Findings 1 through 4 of this report.

**Recommended Conditions of Approval:**

None.

**PUBLIC COMMENT:**

None.

**Analysis:**

The Conditions of Approval for this project, included as Exhibit 1, are based upon comments and recommendations received from reviewing agencies and departments. Finding 1 addresses the adequacy of the subject parcel/project site and determines whether or not the site/parcel is of sufficient size to accommodate the proposed use while maintaining required setbacks or buffers from adjacent properties. Potential impacts to adjacent roadways were analyzed under Finding 2, and potential impacts to surrounding properties were analyzed under Finding 3. Finding 4 addresses the project’s consistency with the General Plan, which guides development of the County through conformance with the applicable goals and policies contained in the individual Elements. The previously-approved Mitigation Measures under CEQA, Conditions of Approval and Project Notes are all considered mandatory conditions of approval based upon adoption of the Mitigated Negative Declaration and approval of Unclassified Conditional Use Permit No. 3647.

Based upon staff’s analysis, the conditions stated in the resolution satisfy the required criteria listed under Finding 5.

**CONCLUSION:**

Finding 5 can be made.

Based on the factors cited in the analysis, staff believes the required Findings for granting the Unclassified Conditional Use Permit can be made. Staff therefore recommends approval of Unclassified Conditional Use Permit No. 3663, amending CUP No. 3647, subject to the recommended Conditions and Project Notes all and Mitigation Measures, Conditions and

Project Notes from previously-approved Unclassified Conditional Use Permit No. 3647.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

- Move to determine the required Findings can be made and move to approve Unclassified Conditional Use Permit No. 3663, subject to the Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Alternative Motion** (Denial Action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Unclassified Conditional Use Permit No. 3663; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Recommended Conditions of Approval and Project Notes:**

See attached Exhibit 1.

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**Unclassified Conditional Use Permit Application No. 3663  
Conditions of Approval and Project Notes**

<b>Conditions of Approval</b>	
1.	All Mitigation Measures, Conditions of Approval, and Project Notes for Unclassified Conditional Use Permit No. 3647 shall remain in effect, except as modified with the approval of Unclassified Conditional Use Permit No. 3663.
2.	Development and operation shall be in substantial conformance with the approved Site Plans, Detail Drawings, Elevation Drawings and Operational Statement.
3.	Prior to issuance of Building Permits, a Site Plan Review (SPR) shall be submitted to and approved by the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include, but are not limited to: design of parking and circulation areas, access, on-site grading and drainage, fire protection, landscaping, signage and lighting.

Conditions of Approval reference recommended Conditions for the project.

<b>Notes</b>	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	The approval of this Conditional Use Permit shall become void if there has not been substantial development within two (2) years after the approval of said Conditional Use Permit; or if there has been a cessation in the occupancy or use of land or structures authorized by said Conditional Use Permit for a period in excess of two (2) years.
2.	Plans, Permits and Inspections will be required for all on-site improvements.
3.	If during development activities, any oil or natural gas wells are encountered that were not part of this review, the property owner/project proponent is expected to notify the California Department of Conservation, Division of Oil, Gas and Geothermal Resources, construction site well review engineer in the Inland District Office, and file for Division review, an amended site plan with well casing diagrams.
4.	The Applicant's operational statement indicates that the separated solids from the anaerobic digester will be disposed of at an appropriate landfill. If the facilities change the operations to use the separated solids for composting prior to the production of compost from operations of the digester, the Applicant shall apply for and obtain a permit to operate a Solid Waste Facility from the Fresno County Department of Public Health, Environmental Health Division, acting as the Local Enforcement Agency.
5.	The proposed use shall comply with the Fresno County Noise Ordinance, Section 8.40 of the Fresno County Ordinance Code.
6.	Provision G.4 of the Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2013-0122 (Reissued General Order) requires the submittal of a Report of Waste Discharge (RWD) prior to starting discharge associated with a development of any treatment technology, as it is considered a material change in the character and volume

**EXHIBIT 1**

Notes	
	<p>of the waste discharge.</p> <p>The proposed new pond should meet the requirements specified in Pond Specification C.5 of the Reissued General Order.</p>
7.	<p>Within 30 days of the occurrence of any of the following events, the Applicant/operator shall update their online Hazardous Materials Business Plan and site map:</p> <ol style="list-style-type: none"> <li>1. There is a 100% or more increase in the quantities of a previously-disclosed material;</li> <li>2. The facility begins handling a previously-undisclosed material at or above the HMBP threshold amounts.</li> </ol> <p>The business shall certify that a review of the business plan has been conducted at least once every year and that any necessary changes were made and that the changes were submitted to the local agency.</p> <p>All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5. This Division discusses proper labeling, storage and handling of hazardous wastes.</p> <p>If the anaerobic digester process requires accepting manure or other feedstock from other than their own property, the facility would be subject to the Transfer/Processing Operations and Facilities Regulatory Requirements (Title 14, California Code of Regulations, Division 7, Chapter 3, and Article 6.0-6.35).</p>
8.	<p>Any proposed uses within the PG&amp;E fee strip and/or easement may include a California Public Utilities Commission (CPUC) Section 851 filing, which requires CPUC to render approval for a conveyance of rights for specific uses on PG&amp;E's fee strip or easement. PG&amp;E will advise if the necessity to incorporate a CPUC Section 851 filing is required.</p>
9.	<p>The Burrel Union Elementary School District and the Riverdale Joint Unified School District in which you are proposing construction are authorized by State law to adopt a resolution requiring the payment of a construction fee. If this occurs, the County, in accordance with State Law which authorizes the fee, will not be able to issue a building permit without certification from the school district that the fee has been paid. An official certification form will be provided by the County when application is made for a building permit.</p>

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**Mitigation Monitoring and Reporting Program  
Initial Study Application No. 7608/Unclassified Conditional Use Permit Application Nos. 3642-3647  
(Including Conditions of Approval and Project Notes)**

<b>Mitigation Measures</b>					
<b>Mitigation Measure No.*</b>	<b>Impact</b>	<b>Mitigation Measure Language</b>	<b>Implementation Responsibility</b>	<b>Monitoring Responsibility</b>	<b>Time Span</b>
1.	Biological Resources	<p>To mitigate impacts to the tricolored blackbird (TRBL), the following measures shall be implemented:</p> <p>Construction shall be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL, within a minimum 500-foot buffer from the Project site, no more than 10-days prior to the start of implementation to evaluate presence/absence of TRB nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.</p> <p>If an active TRBL nesting colony is found during preconstruction surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time and for this reason the colony should be reassessed to determine the extent of the breeding colony before conducting construction activities.</p> <p>In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code Section 2081 (b), prior to any ground-disturbing activities.</p>	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P) in consultation with CDFW	February 1 through September 15

2.	Biological Resources	<p>To mitigate impacts to the San Joaquin Kit Fox (SJKF) and American Badger, the following measures shall be implemented:</p> <p>Avoidance of Burrows for San Joaquin Kit Fox, and American Badger. If dens/burrows that could support any of these species are discovered during the pre-activity clearance surveys conducted under BIO-1, the avoidance buffers outlined below should be established. No work would occur within these buffers unless the biologist approves and monitors the activity. Dens or burrows of these species shall not be destroyed unless it is determined that the den/burrow is not occupied. In no case shall a San Joaquin kit fox natal den or known den be destroyed without the concurrence of the USFWS and CDFW and appropriate artificial den replacements are provided.</p> <ul style="list-style-type: none"> <li>• San Joaquin Kit Fox</li> <li>• Potential Den – 50-feet</li> <li>• Atypical Den – 50-feet (includes pipes and other man-made structures)</li> <li>• Known Den – 100-feet</li> <li>• Natal/Pupping Den – 500-feet</li> </ul> <p>American Badger</p> <ul style="list-style-type: none"> <li>• Known Den — 100-feet</li> </ul> <p>The applicants shall assess presence/absence of SJKF by conducting surveys following the USFWS (2011) "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance." Specifically, CDFW advises conducting these surveys in all areas of potentially suitable habitat no less than 14-days and no more than 30-days prior to beginning of ground disturbing activities.</p> <p>SJKF detection warrants consultation with CDFW to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP), pursuant to Fish and Game Code Section 2081(b).</p> <p>Standard Avoidance and Minimization Measures for the San Joaquin kit fox and American badger. The following standard avoidance and minimization measures are recommended to be implemented:</p>	Applicant	Applicant/PW&P in consultation with CDFW	Before and during construction
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		<ul style="list-style-type: none"><li>• Construction-related vehicles should observe a daytime speed limit of 20-mph throughout the site in all project areas, except on County and City roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction should be minimized to the extent possible. However, if night construction activities do occur, then the speed limit should be reduced to 10-mph. Off-road traffic outside of designated project areas should be prohibited.</li><li>• To prevent inadvertent entrapment of kit foxes or other wildlife during the construction phase of the project, all excavated, steep-walled holes or trenches more than 2-feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks should be installed. Before such holes or trenches are filled, they should be thoroughly examined for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS and the CDFW should be contacted as noted below.</li><li>• Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.</li><li>• All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in securely closed containers and removed at least once a week from a construction or project site.</li></ul>			
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		<ul style="list-style-type: none"><li>• No pets, such as dogs or cats, should be permitted on the project site to prevent harassment, mortality of kit foxes, or destruction of dens.</li><li>• Use of rodenticides and herbicides in project areas should be restricted. This is necessary to prevent primary or secondary poisoning of special-status species and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and federal legislation, as well as additional project-related restrictions deemed necessary by the USFWS. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox.</li><li>• A representative should be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a special-status species or who finds a dead, injured, or entrapped special-status species. The representative will be identified during the employee education program and their name and telephone number should be provided to the USFWS.</li><li>• In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the USFWS should be contacted for guidance.</li><li>• Any person who is responsible for inadvertently killing or injuring a special-status animal species should immediately report the incident to their representative. This representative should contact the CDFW immediately in the case of a dead, injured, or entrapped special-status species. The CDFW contact for immediate assistance is State Dispatch at 916-445-0045. They will contact the local warden or wildlife biologist. The USFWS should be contacted at the number below.</li><li>• The region 8 Sacramento Fish and Wildlife Office and Region 4 CDFW should be notified in writing within three working days of the accidental death or injury to</li></ul>			
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		<p>a kit fox during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The USFWS contact is the Chief of the Division of Endangered Species, at the addresses and telephone numbers below.</p> <p>U.S. Fish and Wildlife Service  Region 8 – California and Nevada  2800 Cottage Way  Sacramento, CA 95825  Contact: Tim Ludwick  Phone: 916-414-6464</p> <ul style="list-style-type: none"> <li>• New sightings of kit fox should be reported to the CNDDDB. A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed should also be provided to the appropriate wildlife agencies.</li> </ul> <p>Den Avoidance. In the event that a potential den that may be suitable for American badger, San Joaquin, or burrowing owl is detected during pre-activity clearance surveys, the biologist should monitor the den using cameras and tracking medium for five days to determine if the den is occupied by a special-status species. If after five (5) days no activity is detected, then the den can be backfilled. Construction personnel may collapse the den only under the direct supervision of the biologist. If a special-status species is detected using the den, the den must be avoided until the animal leaves on its own. A minimum 100-foot buffer should be constructed using orange construction fencing around the den during the nonbreeding season (April to November). During the breeding season (December to March), the buffer should be extended to 250 feet. Consultation with the USFWS and/or CDFW will be required prior to collapsing dens known to be occupied by kit foxes. If authorized by the CDFW, passive relocation of wildlife may be accomplished using one-way doors to exclude wildlife from dens. An exclusion plan approved by CDFW would be required prior to the installation of one-way doors.</p>			
3.	Biological Resources	To mitigate impacts to the Swainson's Hawk (SWHA), the following measures shall be implemented:	Applicant	Applicant/PW&P in consultation with CDFW	February 1 through

		<p>Construction be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting raptors following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) prior to project initiation. In addition, CDFW recommends that a qualified biologist conduct additional pre-construction surveys for active nests no more than 10-days prior to the start of construction.</p> <p>If an active SWHA nest is found during pre-construction surveys, CDFW recommends implementation of a minimum ½-mile no-disturbance buffer until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.</p> <p>If the ½-mile no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, acquisition of an ITP for SWHA is necessary prior to project implementation, pursuant to Fish and Game Code Section 2081(b) to comply with CESA.</p>			September 15
4.	Biological Resources	<p>If project activities are planned to start during the migratory bird nesting season, February 1 to September 15, a pre-activity nesting bird survey should be conducted within seven (7) days of the start of these activities. These surveys should be phased with construction of the project. If active nests are detected during the survey, or at any time during construction of the project, an avoidance buffer will be established by a qualified biologist based on the species and the activities that are underway. For raptor species (except Swainson's hawk), the avoidance will typically be 500 feet. For non-raptor species, the buffer will be 250-feet. Note that some bird species are known to nest on human structures, including construction equipment. Construction personnel should be educated about this possibility as part of the employee education program.</p>	Applicant	Applicant/PW&P in consultation with CDFW	Before and during construction
5.	Biological Resources	<p>To mitigate impacts to the Giant Garter Snake (GGS), the following measures shall be implemented:</p>	Applicant	Applicant/PW&P in consultation with CDFW	Before and during construction

		<p>A qualified biologist shall conduct a habitat assessment well in advance of project implementation, to determine if the Project area or its vicinity contains suitable habitat for GGS.</p> <p>No more than 30-days prior to ground-disturbing activities, a qualified biologist with GGS experience and knowledge of its ecology survey the work area and a minimum 50-foot radius of the work area for burrows and crevices in which GGS could be present. It is advised that all potentially suitable burrows and cervices be flagged and avoided by a minimum 50-foot no disturbance buffer. If a 50-foot radius buffer isn't feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take.</p> <p>If take cannot be avoided, acquisition of an ITP would be required prior to Project implementation to comply with CESA. Capture and relocation of any species listed under CESA would require an ITP from CDFW, as capture (or attempt to do so) is defined as take under Fish and Game Code Section 86.</p>			
6.	Biological Resources	<p>To mitigate impacts to the Burrowing Owl (BUOW), the following measures shall be implemented:</p> <p>The applicant shall assess presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's (CBOC) "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012). In addition, CDFW advises that surveys include a 500-foot buffer around the Project area.</p> <p>Since BUOW occupy burrow habitat year-round, CDFW recommends seasonal no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities associated with Project implementation. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</p> <p>If BUOW are found to occupy the Project site and avoidance is not possible, it is important to note that according to the</p>	Applicant	Applicant/PW&P in consultation with CDFW	Before and during construction

		<p>Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1 :1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance of the Project site during Project activities, at a rate that is sufficient to detect BUOW if they return.</p>			
7.	Biological Resources	<p>To mitigate impacts to sensitive habitat, the following measures shall be implemented:</p> <p>A formal stream mapping and wetland delineation shall be conducted by a qualified biologist to determine the location and extent of streams (including any floodplain) and wetlands within and adjacent to the Project area. Please note that, while there is overlap, State and Federal definitions of wetlands as well as what activities require Notification pursuant to Fish and Game Code Section 1602 differ.</p> <p>Therefore, it is advised that the wetland delineation identify both State and Federal wetlands in the Project area as well as what activities may require Notification to comply with Fish and Game Code. Fish and Game Code Section 2785 (g) defines wetlands; further, Section 1600 et seq. applies to any area within the bed, channel, or bank of any river, stream, or lake. It is important-to note that while accurate wetland delineations by qualified individuals have resulted in more rapid review and response from USACE and CDFW, substandard or inaccurate delineations have resulted in unnecessary time delays for applicants due to insufficient, incomplete, or conflicting data. CDFW advises that site map(s) designating wetlands as well as the location of any activities that may affect a lake or stream be included with any Project site evaluations.</p> <p>Fish and Game Code Section 1600 et seq. requires an entity to notify CDFW prior to commencing any activity that may: (a)</p>	Applicant	Applicant/PW&P in consultation with CDFW	Prior to Permits

		substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. For additional information on Notification requirements, please contact our staff in the LSA Program at (559) 243-4593.			
8.	Biological Resources	Prior to the issuance of building permits, if Stinson Canal cannot be avoided, specific impacts on the features shall be quantified by an aquatic resources delineation prepared by a qualified biologist. A Central Valley Regional Water Quality Control Board Section 401 Water Quality Certification, a Section 404 ACOE permit and Section 1602 California Department of Fish and Wildlife Streambed Alteration Agreement shall be obtained, or confirmation received from these agencies that regulatory permits are not required.	Applicant	Applicant/PW&P in consultation with CDFW	Prior to Permits
9.	Biological Resources	<p>Worker Environmental Awareness Training. Prior to the initiation of construction and for the duration of project construction and maintenance activities that could affect natural habitat, all new personnel should attend a Construction Personnel Environmental Awareness Training and Education Program. The program should be developed by a qualified biologist. Any employee responsible for the operation and maintenance (O&amp;M) of the completed facilities should also attend the Construction Personnel Environmental Awareness Training and Education Program.</p> <p>a) The program should include information on the life history of the burrowing owl, American badger, San Joaquin kit fox, Swainson's hawk, migratory birds and raptors, and special-status plant species that may be encountered during construction and operations and maintenance activities.</p> <p>b) The program should discuss each species' legal protection, status, the definition of "take" under the Endangered Species Act, measures the project operator must implement to protect the species, reporting requirements, specific measures that each worker should employ to avoid take of wildlife species,</p>	Applicant	Applicant/PW&P in consultation with CDFW	Prior to construction

		<p>and penalties for violation of the State and federal ESAs.</p> <p>c) The program should provide information on how and where to bring injured animals for treatment in the case any animals are injured on the project site, and how to document animal mortalities and injuries.</p> <p>d) An attendance form signed by each worker indicating that environmental training has been completed will be kept on record.</p>			
10.	Cultural Resources	In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/PW&P	During ground-disturbing activities
11.	Aesthetics	All outdoor lighting shall be hooded and directed so as not to shine toward adjacent properties and public streets.	Applicant	Applicant/PW&P	During construction and operation
<b>Conditions of Approval</b>					
1.	Development of the property shall be in accordance with the Site Plan, Elevations and Operational Statement approved by the Planning Commission.				
2.	The Applicant shall prepare an Over and Across Agreement to permit access, equipment, conduit, pipeline, etc. crossing from one parcel to another from APN 041-030-20S to APN 041-030-48S. The agreement shall be reviewed and approved by the Development Services and Capital Projects Division of the Department of Public Works and Planning prior to the issuance of building permits.				
3.	Prior to occupancy, a Site Plan Review shall be submitted to and approved by the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance for UCUP Nos. 3642-3647. Conditions of the Site Plan Review may include: design of parking and circulation areas, access, on-site grading and drainage, fire protection, landscaping, signage and lighting.				

\*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document.  
Conditions of Approval reference recommended Conditions for the project.

**Notes**

**The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.**

1.	Unclassified Conditional Use Permit (CUP) Nos. 3642-3647 shall become void unless there has been substantial development within two years of the effective date of approval.
2.	Plans, permits, and inspections are required for the proposed improvements. Contact the Building and Safety Section of the Fresno County Department of Public Works and Planning at (559) 600-4540 for permits and inspections.
3.	All survey monumentation – property corners, section corners, County benchmarks, Federal benchmarks and triangulation stations, etc. – within the subject area shall be preserved in accordance with Section 8771 of the Professional Land Surveyors Act and Section 6730.2 of the Professional Engineers Act.
4.	The proposed Project may be subject to the following Air District Rules and Regulations: <ul style="list-style-type: none"> <li>– Regulation VIII (Fugitive PM 10 Prohibitions),</li> <li>– Rule 4102 (Nuisance)</li> <li>– Rule 4601 (Architectural Coatings)</li> <li>– Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt Paving and Maintenance Operations)</li> <li>– Rule 4002 (National Emission Standards for Hazardous Air Pollutants)</li> <li>– Rule 4550 (Conservation and Management Practices)</li> <li>– Rule 4570 (Confined Animal Facilities)</li> <li>– District Rule 2201 (New and Modified Stationary Source Review) or District Rule 2010 (Permits Required).</li> </ul>
5.	Engineered grading plans will be required for an work exceeding 1,000 cubic yards. An engineered grading plan and grading permit will be required for all project site improvements on all subject parcels
6.	To satisfy Best Practicable Treatment or Control requirements of the Digester Order, the proposed new pond should meet the Tier 1 liner design specifications cited in Pond Specification C.5 of the Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order No. R5-2013-0122.
7.	Any additional runoff generated by the proposed developed of this site should be retained on site.
8.	An encroachment permit from the Road Maintenance and Operations division of the Fresno County Department of Public Works and Planning will be required for any work done in the County right-of-way.
9.	All proposed improvements shall be located outside of the County road right-of-way. Setbacks to proposed structures shall be measured from the ultimate County road right of way.
10.	This application shall comply with California Code of Regulation Title 24 – Fire Code. Prior to receiving Fresno County Fire Protection District (FCFPD) conditions of approval for this project, the Applicant shall submit construction plans to the County of Fresno Department Public Works and Planning for review. It is the Applicant’s responsibility to deliver three sets of plans to FCFPD. This project shall annex to Community Facilities District No. 2010-01 and will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought. FCFPD requirements may include, but are not limited to:

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	water flow requirements, water storage requirements, fire pumps, road access, Public Resources Code 4290, fire hydrants, fire sprinkler systems, fire alarm systems, premises identification and Title 15.60 County Ordinance.
11.	Prior to the production of compost from operations of the digester, the facility shall apply for and obtain a permit to operate a solid waste facility from the County of Fresno Department of Public Health, Environmental Health Division acting as the Local Enforcement Agency. Please contract Solid Waste staff at (559) 600-3271 for more information.
12.	The projects shall comply with the provisions of the Fresno County Flood Hazard Ordinance, Fresno County Ordinance Code Section 15.48. Any structure, tank, electrical panels or other equipment placed within the flood hazard area, will require an elevation certificate (1988 Datum) prepared by a licensed land surveyor.
13	<p>For all County-maintained road crossings the applicant shall be required to:</p> <ul style="list-style-type: none"> <li>• Execute an agreement with the County, assuming financial responsibility for and repair of any impacts to the County maintained roadways, resulting from the installation or operation of underground infrastructure and/or signage within the County right-of-way.</li> <li>• Acquire valid encroachment permits prior to construction of any crossings.</li> <li>• Provide both hard-copy and digital, stamped As-Built engineering drawings detailing all infrastructure within the County right-of-way.</li> </ul>
14	<p>At any road crossings, the proposed pipeline shall be encased in a steel sleeve (diameter and wall thickness as appropriate for the size of the carrier pipe).</p> <p>All County road crossings, of the proposed pipeline, shall be bored and sleeved in a steel casing, which shall extend from right-of-way line to right-of-way line of the road. All such road crossings shall be designed by a registered civil engineer and reviewed by and permitted through the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning.</p> <p>No longitudinal encroachments of the proposed pipeline, shall be allowed in the County road right-of-way.</p> <p>Any electrical interconnects shall be located outside of the County right-of-way unless the facilities are deeded to Pacific Gas and Electric (PG&amp;E) for maintenance purposes.</p>
15.	The applicants and or entities, shall register with Underground Service Alert (USA) North, and pay annual fees to ensure that USA is notified any time there is a proposed excavation in proximity to the pipeline.
16.	The project shall comply with the Health and Safety Element of the Fresno County General Plan and the provisions of Chapter 8.40 - Noise Control, of the Fresno County Ordinance Code.
17.	<p>Within 30 days of the occurrence of any of the following events, the applicant/operators shall update their online Hazardous Materials Business Plan (HMBP) and Site Map:</p> <ol style="list-style-type: none"> <li>1. There is a 100 percent or more increase in the quantities of a previously undisclosed material; or</li> </ol>

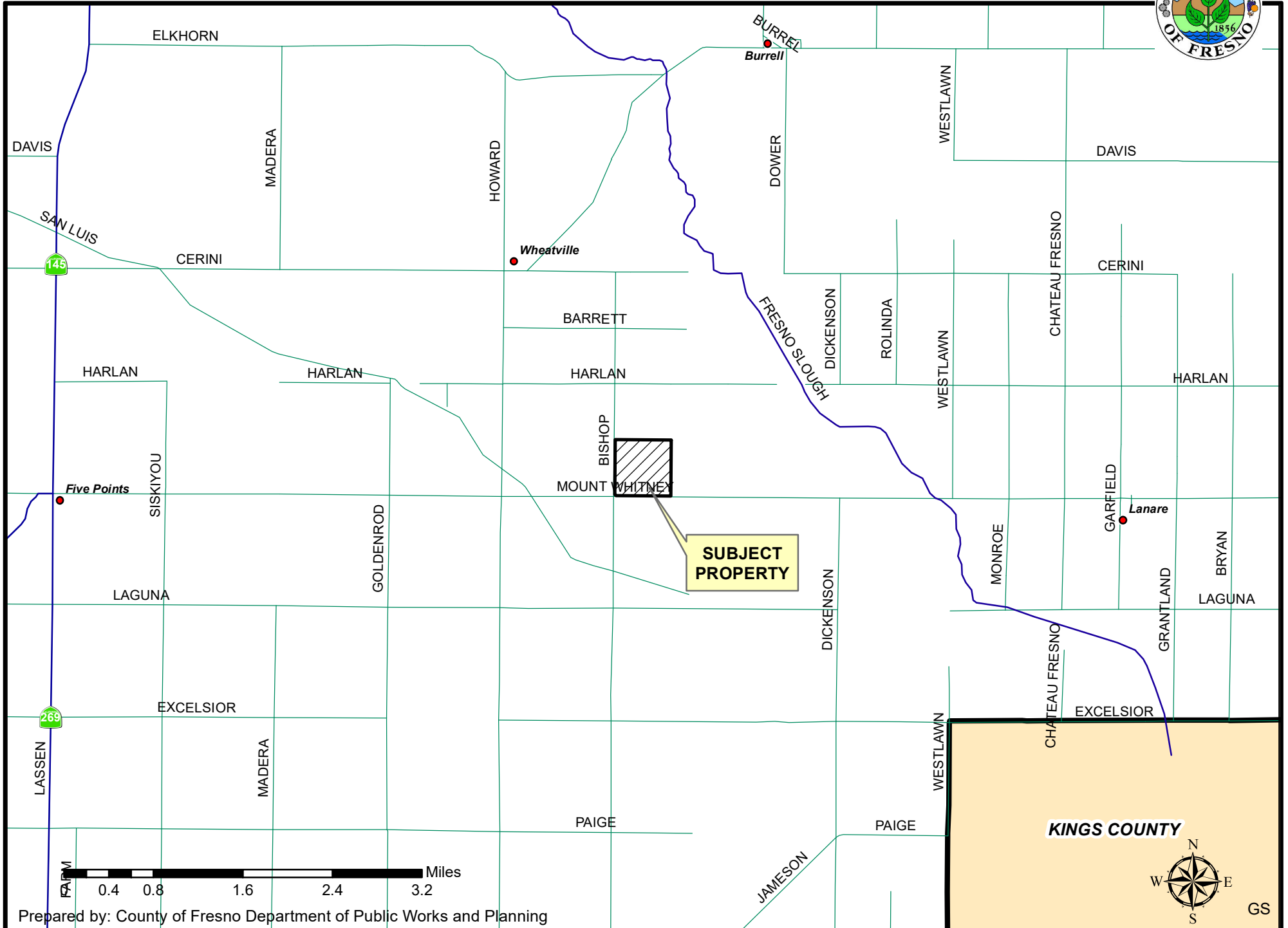


<b>Notes</b>	
	<p>2. The facility begins handling a previously undisclosed material at or above the HMBP threshold levels.</p> <p>The proposed operation shall certify that a review of the business plan has been conducted at least once every year and that any necessary changes were made and that the changes were submitted to the local agency.</p>
18,	<p>All hazardous waste shall be handled in accordance the requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5, which discusses proper labeling, storage and handling of hazardous wastes.</p> <p>If the anaerobic digester process requires accepting manure or other feedstock from off site, the facility will be subject to the Transfer/Processing Operations and Facilities Regulatory Requirements (Title 14, California Code of Regulations (CCR), Division 7, Chapter 3, Articles 6.0-6.35.</p>
19.	<p>According to the applicant's submitted operational statement, the proposed operation entails that separated solids from the anaerobic digesters will be disposed of at an appropriate solid waste facility. If the facilities change operations to use the separated solids for composting; the applicants/operators shall, prior to the production of compost from digester operations, apply for an obtain a permit to operate a Solid Waste Facility, from the County of Fresno Department of Public Health, Environmental Health Division (Local Enforcement Agency).</p>
20.	<p>The applicant and property owner of each parcel, to be traversed by or contain any portion of the proposed pipeline, shall create and record pipeline easement(s) with exhibit maps with the County of Fresno for the entire pipeline.</p>
21.	<p>All of the participating dairies are regulated by the Regional Water Quality Control Board, under the Dairy General Order, and are required to have a Waste Management Plan, and Certificate of Waste Discharge.</p>

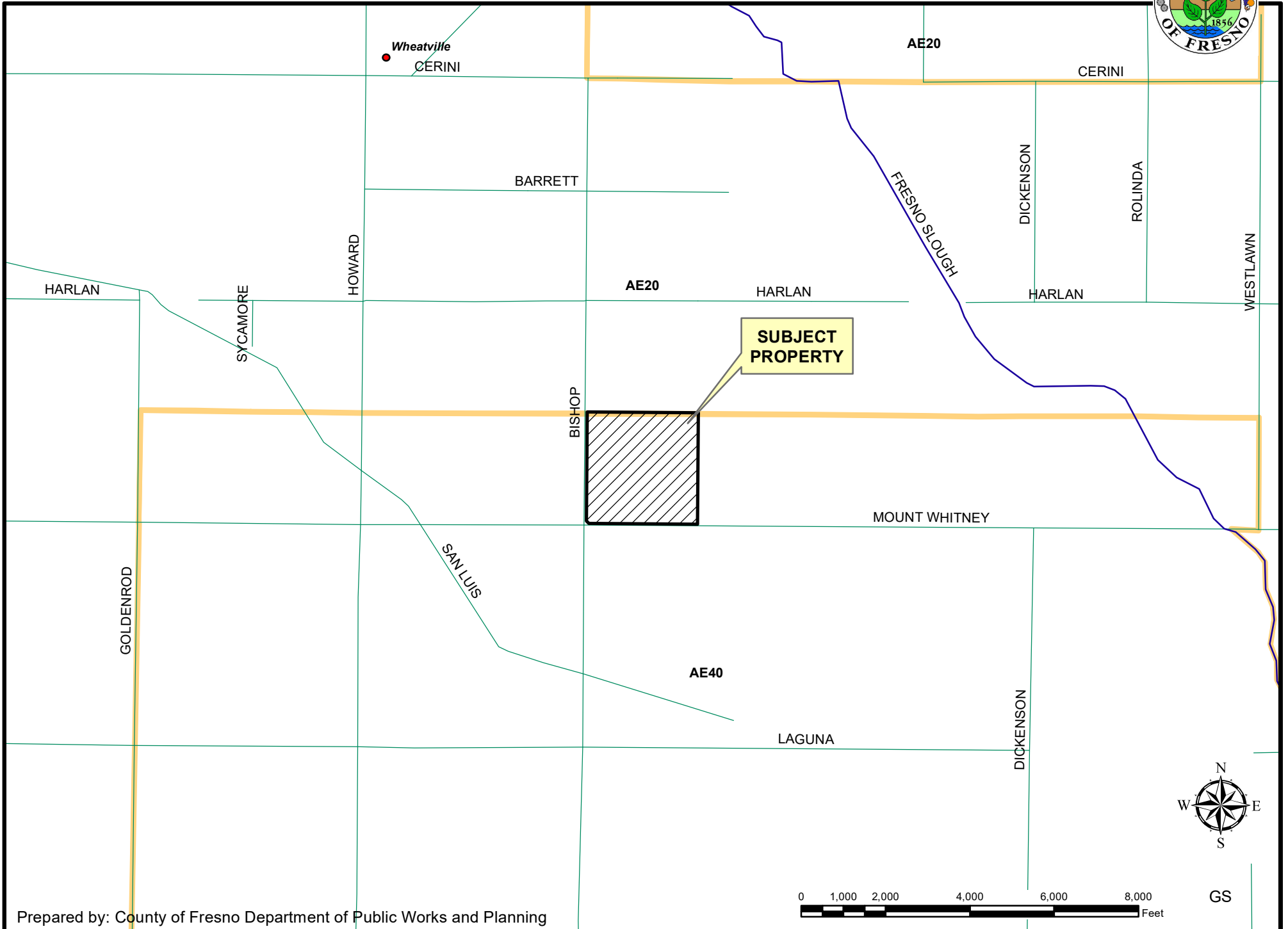
JS:

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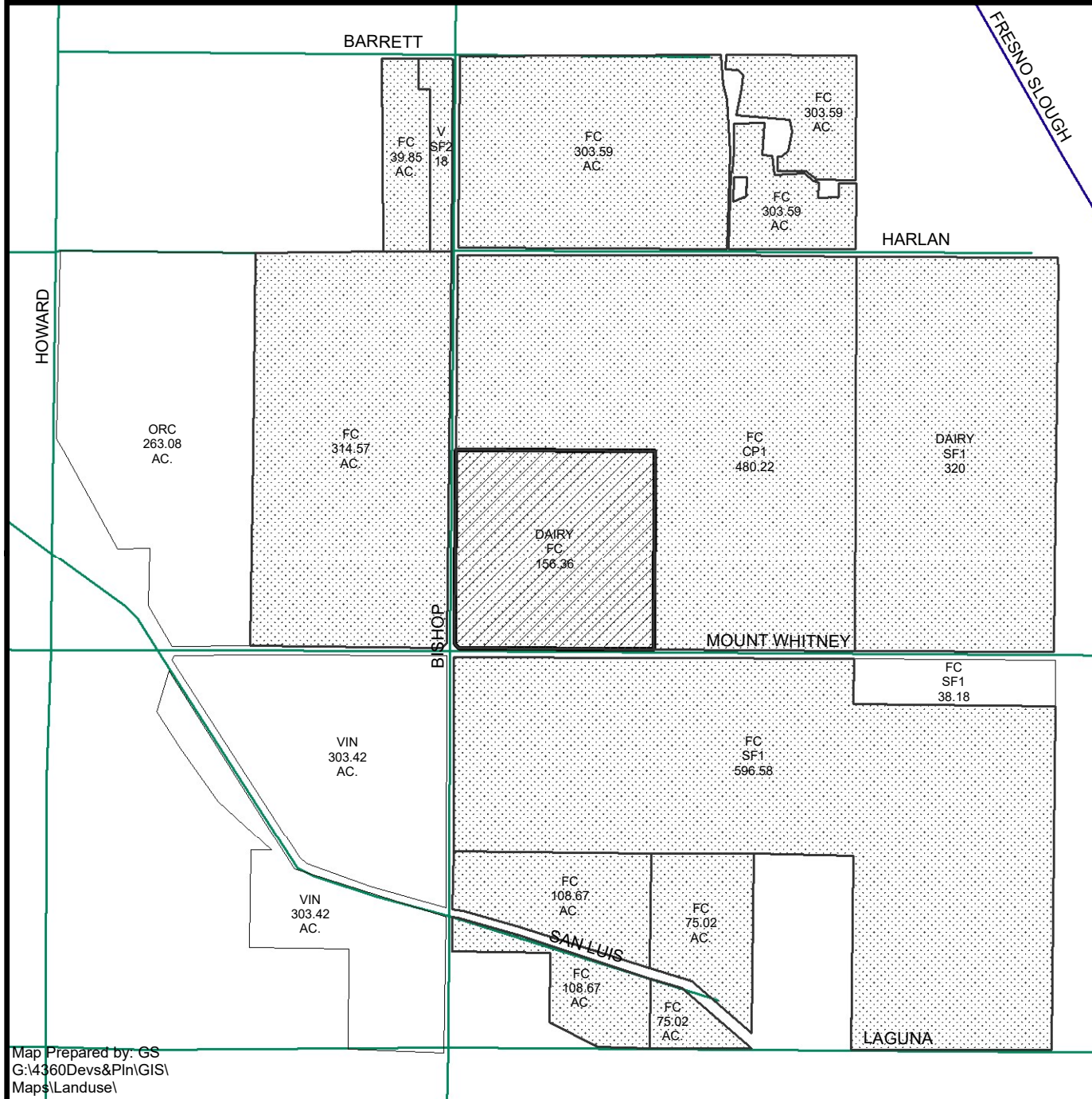
# LOCATION MAP



# EXISTING ZONING MAP



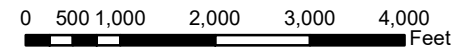
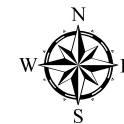
# EXISTING LAND USE MAP



LEGEND	
CP# -	OFFICE COMM./PROF
DAIRY	
FC -	FIELD CROP
ORC -	ORCHARD
SF# -	SINGLE FAMILY RESIDENCE
V -	VACANT
VIN -	VINEYARD

**LEGEND:**

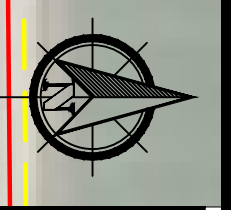
-  Subject Property
-  Ag Contract Land



Map Prepared by: GS  
 G:\4360Devs&PIn\GIS\  
 Maps\Landuse\

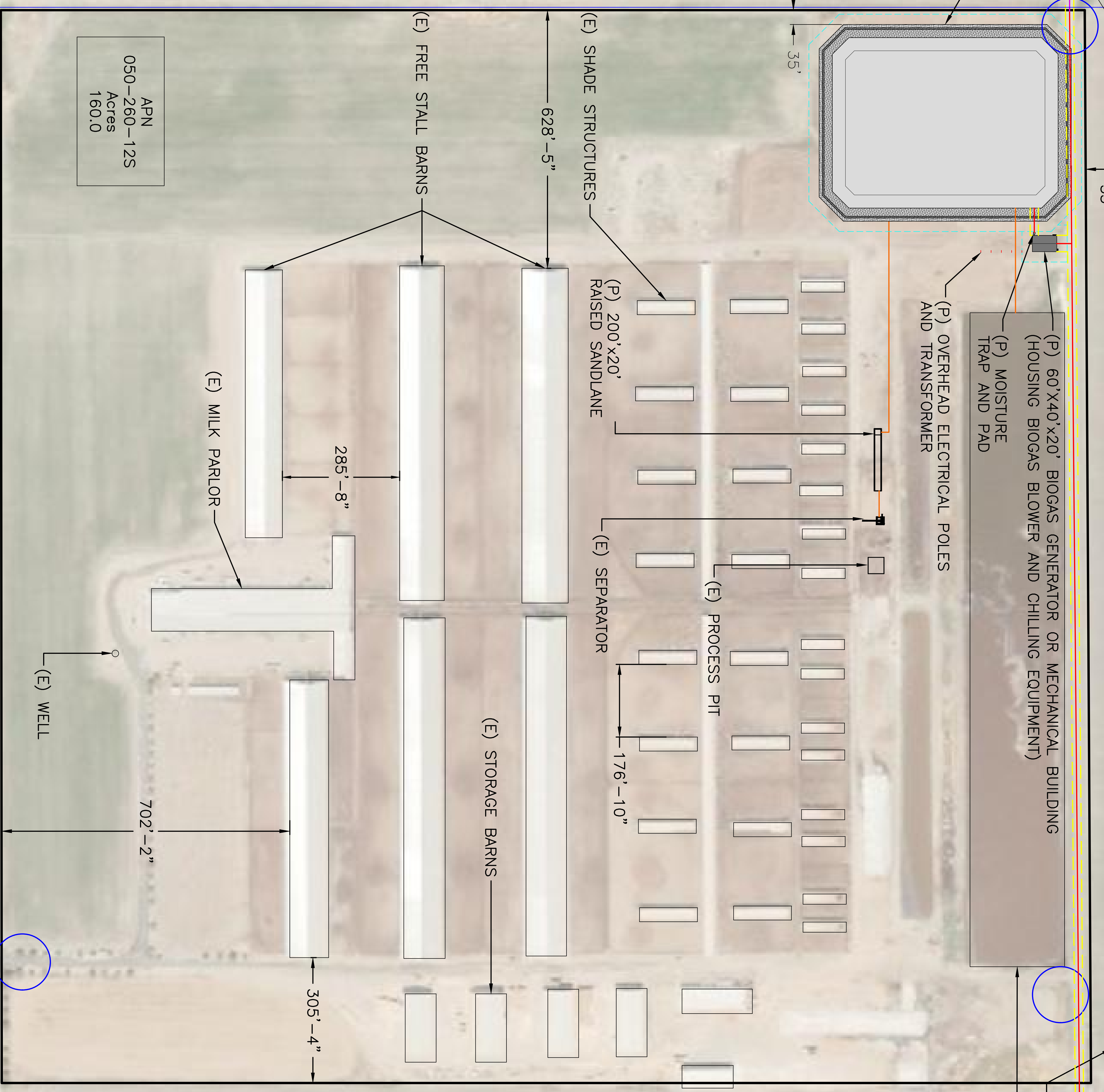
Department of Public Works and Planning  
 Development Services Division





- Existing Structures (E)
- Proposed Structures (P)
- Access to the Property
- Proposed Fencing
- No improvements to streets have been proposed
- Off-street dirt parking and loading areas exist throughout the property. No new parking/loading areas have been proposed.
- 4" Biogas Gathering Lines
- 6" Biogas Gathering Lines
- Manure Piping
- PG&E Transmission Line
- APN Boundaries
- Land removed from Williamson Act
- County Right of Way
- 20' Pipeline Easement
- Property Access

APN 050-260-11S  
 Acres 477.3



Drawing scale is 120' = 1"  
 0 120' 240'

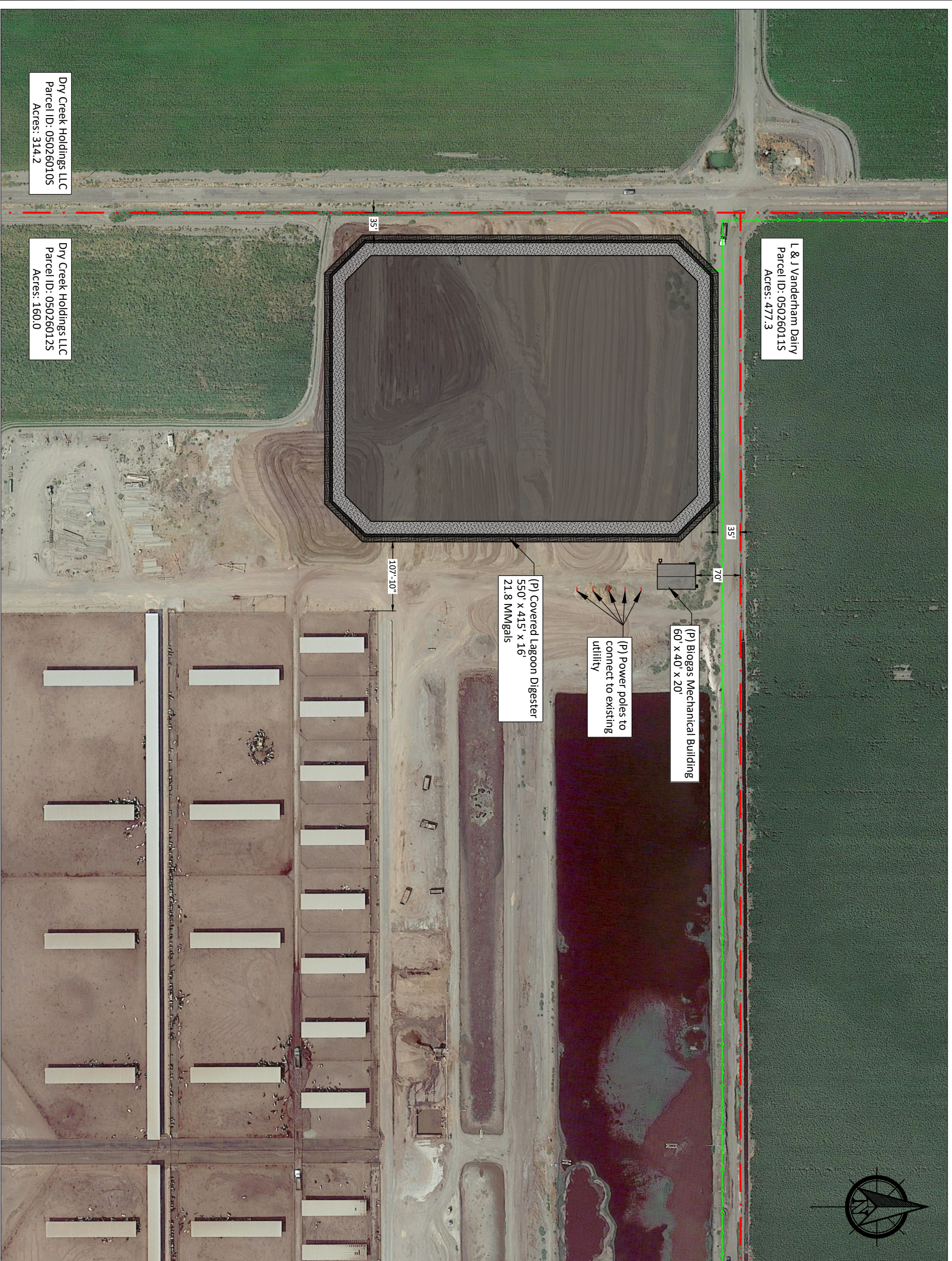
MAAS ENERGY WORKS  
 3711 Meadow View Dr.  
 Suite 100  
 Redding, CA, 96002  
 Project Name and Address  
 Wilson Dairy 11720  
 West Mount Whitney Ave  
 Riverdale, California 93656  
 Date: 10/23/19  
 Version: 1.2  
 Drawn by: Byron Ota, Sean Norris



General Notes

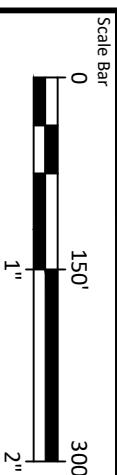
**CONFIDENTIAL**

- (P) Proposed
- APN Boundary
- (P) Biogas Pipeline



Firm Address  
 3711 Meadowview Dr.  
 Suite 100  
 Redding, CA, 96002

Project Name and Address  
 J&D Wilson & Sons Dairy  
 11720 W. Mt. Whitney Ave.  
 Riverdale, CA 93656



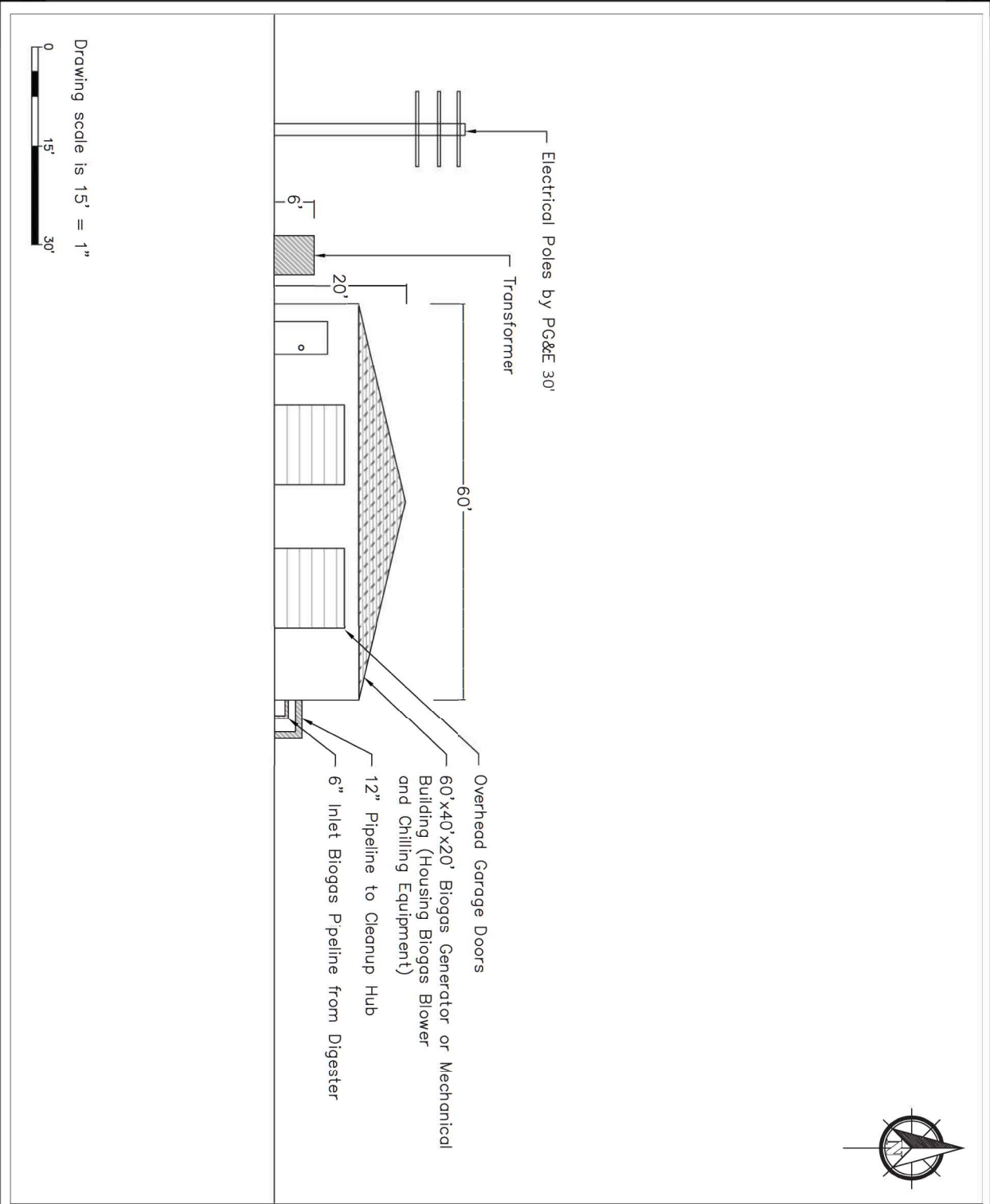
Drawn By	Date	Version
Sean Morris	9/13/19	1.02
Sheet Size	Page #	
11" x 17"	1 of 1	



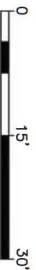


General Notes

Not for Construction



Drawing scale is 15' = 1"



**Firm Address**

3711 Meadow View Dr.  
Suite 100  
Redding, CA, 96002

**Project Name and Address**

Five Points Cluster  
Cleanup Hub & Injection Point  
12103 Elkhorn Ave.  
Riverdale, CA 93656

**Date**

3/22/19

**Version**

1.0

Drawn By  
Byron Oja

J&D Wilson & Sons Dairy  
11720 West Mount Whitney Avenue  
Riverdale, CA 93656

### CUP Application -Operational Statement Additional Information

#### Mechanical Building

The mechanical building will be a prefabricated steel building no larger than 60' x 40'. This building will house chilling equipment and the blower and the biogas generator. Construction for this building will take 4-6 weeks. See attached document for profile view.

#### Describe construction materials, height, color, floor plan elevations

Steel building will be constructed with steel I-beams for the frame, a painted green sheet metal exterior, and insulation on the interior. See attached site plan for profile view showing height of 20' to top of roof.

#### Operational Times and Visitors

The facility will be operational 24/7, but not open to public visitors without prior permission.

#### Number of Employees

Construction: Digester and ancillary equipment: a maximum of 10 people for short periods of time, with an average of 5 people on site during the 7 months of construction.

Operations: Remote sensor and computer monitoring of the equipment will be operated permanently. One employee will make a daily inspection of the facility. That work will be conducted during regular business hours, 8am-5pm, and on-call 24/7. No permanent facility employees will work or live on-site.

#### Service and Delivery Vehicles

There will be one service truck which will visit once per day. No delivery trucks will be on site pertaining to the digester.

#### Access

Access to the site would be taken from West Mt Whitney Avenue, S Bishop Ave and unnamed dairy roads surrounding the project site. The project site is located on private property and is not for public access.

#### Biogas Blower and Chilling Equipment

Once it has passed through the moisture trap, the biogas will be pulled through the blower and sent to chilling equipment and then the gathering lines. A chiller and condenser will be installed to condense most of the water in the biogas before blowing into the gathering pipeline. The chiller is a typical commercial unit for cooling glycol. The condenser is a commercially available unit for condensing moisture from biogas.

A blower will be installed near the digester to move the biogas into the gathering lines at pressure of less than 20 psi. Each blower will be controlled by a central SCADA system that is overseen by operators on a 24/7 basis. When a blower increases in speed, more biogas is pushed to the upgrading facility, and when it decreases, less biogas is sent. The gathering lines will be pressure monitored via SCADA equipment in real time to detect leaks or major failures. Additionally, flow meters will be installed at each digester site and at the upgrading facility to monitor biogas flows.



### Supporting Equipment

Supporting equipment is including but not limited to a transformer and electrical poles which will be installed per PG&E requirements in order to support the biogas generator. Furthermore, supporting equipment is any equipment which is essential for the function of the equipment and completion of the project ambitions. Such equipment may include small pumps, electrical controls, and other minor equipment which is deemed necessary.

### Appearance/Noise/Dust

The project facility is similar in nature to the existing dairy infrastructure and fits into its surroundings. The pipeline will run underground and will not be seen. Noise generated by the project equipment will not be above typical agriculture facility levels. The facility does not include any lights or other sources of glare beyond what is currently used for security reasons at the dairy. Once operational, the project will not generate fugitive dust. The project will not emit or concentrate any odors, and in fact will reduce odors with the installation of the covered manure lagoon.

### Solid or Liquid Waste to be Produced

Facility will produce minimal amounts of solid waste. Waste will be picked up once per month by a solid waste disposal company and taken to an appropriate landfill. The facility will produce less than 10 gallons per month of waste blower oil. This oil will be stored on site in containers less than 45 gallons and picked up by a disposal company whenever the container is full.

### Construction and Operational Water Usage

Construction of the digester and ancillary equipment is anticipated to take approximately 140 working days. Water for construction and operations would be supplied by an existing on-site agricultural well.

Construction: An estimated 20,000 gallons/day is anticipated during the first 20 working days of construction activities, and 2,000 gallons/day is anticipated during the remaining 6 months of construction activities. Based on an average 20 workdays per month, approximately 2 AF would be required (20,000gallons x 20 days + 2,000 gallons x 120 days = 640,000 gallons).

Operations: Water usage is anticipated to be approximately 500 gallons per day or 0.5 AF annually during operation.

### Five Points Interconnection

A continuous flow of biogas will be provided to PG&E's interconnection point. The main components of the interconnect will consist of PG&E engineered and procured chromatograph, to sense the quality of the biogas, an odorizer, per utility specification, and a slam shut valve that is tied into the chromatograph. If the cleaned-up biogas is ever out of the Rule 21 specification, the slam shut valve will engage and biogas will divert back through the Five Points clean up facility.



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## EVALUATION OF ENVIRONMENTAL IMPACTS

- APPLICANT:** Five Points Pipeline, LLC
- APPLICATION NOS.:** Initial Study Application No. 7608 and Unclassified Conditional Use Permit Application Nos. 3642, 3643, 3644, 3645, 3646, and 3647.
- DESCRIPTION:** This project proposes to allow the installation of four new covered lagoon, anaerobic dairy digesters with related biogas conditioning equipment and biogas generators to produce electricity on four existing dairies; the installation of biogas conditioning equipment at a fifth dairy with an existing digester and generator; the construction of an approximately 10.5 mile underground pipeline to connect the participating dairies and allow produced biomethane to be transported to a centralized hub, where a biogas upgrading facility will be constructed to clean and condense the biogas before it is injected into the PG&E natural gas transmission line.
- LOCATION:** The project is bounded by the unincorporated communities of Five Points to the southwest, Helm to the north, Burrell to the northeast, and Lanare to the east and southeast; State Route 145 (Madera Avenue) on the west, Mount Whitney Avenue on the south, Jameson Avenue on the east, and Kamm Avenue on the north within the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone Districts. (SUP. DIST. 1 and 4 ) (Dairies: APN Nos. 040-130-51S; 050-160-16S; 050-270-56S; 050-170-41S; 050-260-12S; 040-130-35S) (Pipeline APN Nos. 040-130-51S, 49, 44S, 48S; 041-100-17, 45S; 050-160-13S, 16S; 050-200-38S; 050-230-20; 050-260-10S; 050-230-23S; 050-260-12S, 11S; 050-270-56S; 040-130-35S).

### I. AESTHETICS

Except as provided in Public Resources Code Section 21099, would the project:

- A. Have a substantial adverse effect on a scenic vista?

**FINDING: NO IMPACT:**

The project is located in an agricultural area and is not near any scenic vistas. The proposed project involves the installation of a 10.5 mile underground gas pipeline to connect 5 existing dairies, which will introduce biomethane to the pipeline, to be collected at a central hub where the biogas will be conditioned to meet commercial standards before it is injected into Pacific Gas and Electric's (PG&E) main natural gas line, which traverses the central hub site. The project area encompasses portions of 17 parcels, consisting of the five participating dairies, and an additional 12 parcels to be traversed by the proposed pipeline. This area is characterized by large farming parcels and open space. The project will not add any structures that would obstruct any views from neighboring properties or from adjacent roadways. Project construction will be limited to the proposed underground pipeline and the installation of new gas conditioning equipment at the existing dairy sites. Therefore, the project will have no impact on scenic vistas.

- B. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

**FINDING: NO IMPACT:**

No scenic resources, including trees, rock outcroppings, or historic buildings were identified in the analysis or by any reviewing agencies. One of the dairy sites is located approximately one third-mile east of State Route 145 (South Lassen Avenue), which is not a Scenic Highway per the Fresno County General Plan, Figure OS-2.

- C. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

**FINDING: NO IMPACT:**

The project area is entirely located in a rural area characterized by large-scale agricultural operations. As previously stated, the project does not entail the addition of any structures that would negatively impact viewsheds from surrounding properties or public roadways, or substantially degrade the visual character or quality of public views of any of the project sites. The proposed improvements are consistent with the existing dairy operations.

- D. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

**FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:**

The proposed project will not introduce substantial, new sources of light or glare. The proposed facilities will utilize outdoor security lighting and all lighting will be required to be hooded and directed downward so as not to shine on adjacent properties or roadways.

\* **Mitigation Measure(s)**

1. *All outdoor lighting shall be hooded and directed so as not to shine toward adjacent properties and public streets.*

## II. AGRICULTURAL AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology in Forest Protocols adopted by the California Air Resources Board. Would the project:

- A. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Farmland on the subject parcels has been classified as a mixture of farmland of statewide importance and confined animal agriculture. The confined animal designation is limited to the area where the dairy cows are housed and the new improvements will be located in the area of the existing dairies where the land has been designated for confined animal agriculture. The proposed pipeline will transverse farmland of statewide importance, but will be located at least four feet below the surface of the farming operation, and will not hinder agricultural operations. The new improvements will be supportive of dairy operations.

- B. Conflict with existing zoning for agricultural use, or a Williamson Act Contract?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The parcels involved with the proposed project are restricted by Williamson Act Contracts, and due the commercial nature of gas and electrical exportation to gas pipelines and the electrical grid, the areas of each dairy where the digesters and supporting equipment are located will be required to non-renew the existing contracts on those portions of the property. The amount of land that will be non-renewed does

not represent a significant reduction in land restricted by Williamson Act Contracts and will not result in the reduction of agricultural products.

- C. Conflict with existing zoning for forest land, timberland or timberland zoned Timberland Production; or
- D. Result in the loss of forest land or conversion of forest land to non-forest use?

FINDING: NO IMPACT:

The project is not located near any land that is used or zoned for Timberland Production. Therefore, there are no conflicts with, or loss of, timberland or forest land as a result of this project. All of the land involved is zoned Agricultural and limited to uses allowed in such zone districts.

- E. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use or conversion of forest land to non-forest use?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project entails the installation of new dairy digesters at four existing dairy sites along with ancillary equipment; the addition of ancillary equipment at a fifth dairy site with an existing digester; construction of an approximately 10.5 mile underground pipeline connecting the five dairies to one central hub; and allowing biomethane produced at each participating dairy to be collected and transported via the pipeline, to the central hub, located on the Open Sky Dairy which is centrally located to the other dairies. From the central hub, the collected biogas will be conditioned to commercial natural gas standards before being injected into the adjacent PG&E main natural gas pipeline.

The portions of the parcels where the digesters and ancillary equipment will be located have been submitted for non-renewal of the associated Williamson Act Contracts. The conflict with the Williamson Act is primarily due to the commercial nature of the operation, which proposes to generate gas and electricity for sale to PG&E. The continued dairy operations on these parcels is necessary to feed the digesters. Therefore, approval of this project will not result in the conversion of farmland to non-agricultural uses.

As noted above, the project is not located in the vicinity of forestland and therefore, will have no impacts on the conversion of forestland to non-forest uses.

### III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:

A. Conflict with or obstruct implementation of the applicable Air Quality Plan?

FINDING: LESS THAN SIGNIFICANT IMPACT:

This project proposal was reviewed by the San Joaquin Valley Air Pollution Control District (SJVAPCD). The District recommended that the evaluation of this proposal include estimates of construction, operation, mobile and stationary emissions sources, and the project's proximity to sensitive receptors and other existing emission sources, and that District established thresholds of significance for criteria pollutants be considered in the evaluation. The District also recommended that Operational Emissions (stationary sources) and non-permitted (mobile sources) be evaluated separately, and that project related criteria pollutant emissions from construction and operation should be identified and quantified.

The applicant provided an air quality impact and greenhouse gas analysis, completed by Insight Environmental/Trinity Consultants, dated May 2019. According to the analysis, the proposed project's construction and operations would contribute the following criteria pollutant emissions: reactive organic gases (ROG), carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>), and suspended particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). Project operations would generate air pollutant emissions from mobile sources (automobile activity from employees) and area sources (incidental activities related to facility maintenance). Criteria and GHG emissions were estimated using the California Emissions Estimator Model (CalEEMod) version 2016.3.2 (California Air Pollution Control Officers Association (CAPCOA) 2017), which is the most current version of the model approved for use by the San Joaquin Valley Air Pollution Control District (SJVAPCD).

Based on the air quality impact analysis, the short-term construction emissions would not exceed Air District significance thresholds for criteria pollutant levels during a given year and impacts would therefore, be less than significant. Project operational emissions are not anticipated to be a substantial source of PM<sub>10</sub> emissions, but rather the main sources of PM<sub>10</sub> would be vehicular traffic associated with the project. Transportation related activities from employees and maintenance would generate mobile source ROG, NO<sub>x</sub>, SO<sub>x</sub>, CO, PM<sub>10</sub>, PM<sub>2.5</sub> from vehicle exhaust.

Stationary source emissions from the project are anticipated to consist of VOC emissions from the biogas upgrade process and ROG, No<sub>x</sub>, SO<sub>x</sub>, CO, PM<sub>10</sub> and PM<sub>2.5</sub> exhaust emissions from the combustion of the biogas to generate electrical power.

Air pollution associated with stationary sources is regulated through the permitting authority of the SJVAPCD under the New and Modified Stationary Source Review Rule (SJVAPCD Rule 2201). Owners of any new or modified equipment that emits, reduces, or controls air contaminants, except those specifically exempted by the SJVAPCD, are required to apply for an Authority to Construct and Permit to Operate (SJVAPCD Rule 2010). Additionally, best available control technology (BACT) is required on specific

types of stationary equipment and are required to offset both stationary source emission increases along with increases in cargo carrier emissions if the specified threshold levels are exceeded (SJVAPCD Rule 2201, 4.7.1). Through this mechanism, the SJVAPCD would require that all stationary sources within the project area would be subject to the standards of the SJVAPCD to ensure that new developments do not result in net increases in stationary sources of criteria air pollutants.

With adherence to the rules and requirements of the SJVAPCD, the estimated construction and operational emissions from the proposed project will be less than significant.

- B. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project area is located in the San Joaquin Valley Air Basin (SJVAB), which is included among the eight counties that comprise the SJVAPCD. Under the provisions of the U.S. Clean Air Act, the Fresno County portion of the SJVAB has been classified as nonattainment/extreme, nonattainment/severe, nonattainment, attainment/unclassified, attainment for various criteria pollutants. As shown in the analysis by Insight Environmental Consultants, the project does not pose a substantial increase to basin emissions. Because the proposed project would generate less than significant project-related operational impacts to criteria air pollutants, the project's contribution to cumulative air quality impacts would not be cumulatively considerable.

- C. Expose sensitive receptors to substantial pollutant concentrations; or
- D. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Dairies are known to release objectionable odors, primarily due to animal waste from the milking cows. The project proposes to install covered digesters, which will process manure. The manure will be anaerobically activated to release methane, which will then be piped through a gas collection system to a central hub to generate renewable energy. The capture of methane gas is anticipated to remove adverse odors from the air as compared to the baseline.

Lead Agencies should consider situations wherein a new or modified source of hazardous air pollutants (HAPs) is proposed for a location near an existing residential area or other sensitive receptor when evaluating potential impacts related to HAPs. Typical sources of HAPs include diesel trucks or permitted sources such as engines, boilers, or storage tanks. The project will be located near scattered rural residences on large agricultural parcels. Since there will be HAPs emitted from the project and

occasional diesel truck travel on-site, a prioritization score was determined for the facility to determine if a health risk assessment (HRA) would be required. A Health Risk Assessment (HRA) is not required for a project with a total facility prioritization score of less than or equal to one. The project's prioritization score was 0.04, which is less than one. Therefore, no further analysis is required to determine the HAPs impacts from this project and potential risk to the population attributable to emissions of HAPs from the proposed project would be less than significant.

According to the analysis, the proposed project would not exceed any screening trigger levels to be considered a source of objectionable odors or odorous compounds. Furthermore, there does not appear to be any significant source of objectionable odors in close proximity that may adversely impact the project site when it is in operation. The project emission estimates indicate that the proposed project would not be expected to adversely impact surrounding receptors. As such, the project would not be a source of any odorous compounds nor would it likely be impacted by any odorous source.

Development in this area is dominated by large parcels of agricultural production with very limited residential development. Due to the anticipated reduction in objectionable odors and the distance between the closest residences and the project site, this project will not expose sensitive receptors to substantial pollutant concentrations and will not create objectionable odors affecting a substantial number of people.

#### IV. BIOLOGICAL RESOURCES

Would the project:

- A. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or
- B. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

**FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:**

A Biological Analysis Report (BAR), dated April 2019, was prepared for the project by the applicant's consultant, Quad Knopf, Inc. (QK). Reviews of agency-maintained databases were conducted to determine the potential presence of sensitive biological resources and special-status species. The results of the database and literature review indicate that eight (8) special-status species have the potential to occur within the vicinity of the project. Those species are the Swainson's hawk (*Buteo swainsoni*), western burrowing owl (*Athene cunicularia*), yellow-headed blackbird (*Xanthocephalus xanthocephalus*), loggerhead shrike (*Lanus ludovicianus*), tricolored blackbird (*Agelaius tricolor*), American badger (*Taxidea taxus*), San Joaquin kit fox (*Vulpes macrotis mutica*), and long-billed curlew (*Numenius americanus*).



A reconnaissance level field survey was conducted to identify sensitive biological resources on site and to document the suitability of the habitat on the project to support special-status species. No sensitive natural plant communities occur on the project sites. No special-status plant species were observed on the project sites. Swainson's hawk, loggerhead shrike, and long-billed curlew were observed near the site. No other special-status animal species were observed on site.

The project sites are highly disturbed and currently mostly cleared of vegetation. The pipeline route will run through private agricultural land. The presence of special-status species on these sites prior to ground disturbance cannot be positively determined. Reviews of the databases and on-site field examinations indicated that there are five defined waters or wetlands on or near the project sites. There are no designated migratory corridors or linkages, significant nursery sites, or designated Critical Habitat that occur on the project site.

A reconnaissance-level site survey was conducted on April 6, 2019 by QK. The survey consisted of meandering pedestrian transects with supplemental windshield survey of the Biological Study Area (BSA). Adjacent parcels were visually scanned for potential special-status resources and habitat conditions that could support special-status resources. The BSA supports a variety of bird, and mammal species. Various wildlife sign (i.e. scat, tracks, burrows etc.) were detected on all five sites. Wildlife sign detected included common bird species, two stick nests that could potentially be used by raptors, and numerous small mammal burrows. Twelve animal species or their sign were observed within the BSA. The project contained a few small mammal burrows scattered throughout the BSA.

Within the BSA, suitable San Joaquin kit fox habitat is not present; however, the pipeline route, specifically along the agriculture irrigation canals, may be used by the species while foraging or traveling through the area. The surrounding area near the pipeline route and dairy digester sites may provide suitable habitat for the species. There are multiple records of this species occurring near the BSA, but there is no positive evidence that the San Joaquin kit fox is present in the BSA.

Suitable foraging Swainson's hawk habitat is present in the agricultural fields surrounding the site. A Swainson's hawk was observed approximately 0.2-miles north, outside of the project area and east of the Van der Kooi Dairy. Suitable nesting habitat is found near the intersection of W. Elkhorn Avenue and S. Howard Avenue and along the Fresno Slough, but no nesting Swainson's hawks were found in the BSA during the reconnaissance survey.

Within the BSA, suitable foraging habitat for tricolored blackbird is present, but no nesting habitat is present. Suitable foraging loggerhead shrike habitat is present in the agricultural fields. Suitable nesting habitat is unlikely to be present within the BSA, but it may be present in the surrounding area. Trees with dense foliage that have the potential to house nests for this species occur in areas surrounding the BSA. Also, suitable foraging habitat for yellow-headed blackbird is present, but no nesting habitat is

present within the BSA. Suitable foraging and nesting long-billed curlew habitat is present. They typically nest in areas that are relatively dry and exposed. The nests are built near conspicuous objects such as livestock dung piles, rocks, or dirt mounds.

Within the project area, suitable badger habitat is not present, but the pipeline route, specifically along the irrigation canals, may be used by this species while foraging or traveling through the area.

Due to the high level of disturbance within the project footprint, lack of potential suitable areas for special-status plant species on the project site, and lack of potential for special status plants to exist on the site, no avoidance or minimization measures for special-status plant species are warranted.

~~The lack of special-status species within the localized project impact area and the short duration of activities, coupled with implementation of avoidance and minimization mitigation measures will be sufficient to reduce impacts of the projects to special-status wildlife species to level that would be less than significant.~~

**The California Department of Fish and Wildlife (CDFW) commented that Tricolored Blackbird (TRBL) are known to occur in the Project area. Flood-irrigated agricultural land, including silage fields associated with ~airies, is an increasingly important nesting habitat type for TRBL, particularly in the San Joaquin Valley (Meese et al. 2014 ). This potential nesting substrate is distributed throughout the Project area. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014 ). Approximately 86% of the global population of the species is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). Increasingly, TRBL are forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, for example, 55% of the species' global population nested in only two colonies, which were located in silage fields (Kelsey 2008). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961 ). For these reasons, depending on timing, disturbance to nesting colonies can cause abandonment, significantly impacting TRBL populations (Meese et al. 2014 ). CDFW recommends the following mitigation measures to ensure that the TRBL is not impacted by the project.**

\* **Mitigation Measure(s)**

1. ***To mitigate impacts to the tricolored blackbird (TRBL), the following measures shall be implemented:***

***Construction shall be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL, within a minimum 500-foot buffer from the Project site, no more than 10-days prior to the start of implementation***

**to evaluate presence/absence of TRB nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.**

**If an active TRBL nesting colony is found during preconstruction surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time and for this reason the colony should be reassessed to determine the extent of the breeding colony before conducting construction activities.**

**In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code Section 2081 (b), prior to any ground-disturbing activities**

~~—Pre-activity Surveys for Special Status Species. No less than 14 days prior to the start of project ground disturbance activities in any specific area, a pre-activity clearance survey should be conducted by a qualified biologist knowledgeable in the identification of listed species. The surveys should cover the project site plus a 250-foot buffer. Pedestrian surveys achieving 100% visual coverage should be conducted. Multiple surveys are anticipated to be needed as each project site and the pipeline route is initiated. If no evidence of these species is detected, no further action is required.~~

**San Joaquin Kit Fox (SJKF) have the potential to occur on the Project site. Without appropriate avoidance and minimization measures for SJKF, potential significant impacts associated with the Project's construction include den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.**

- 2. Avoidance of Burrows for San Joaquin Kit Fox, and American Badger. If dens/burrows that could support any of these species are discovered during the pre-activity clearance surveys conducted under BIO-1, the avoidance buffers outlined below should be established. No work would occur within these buffers unless the biologist approves and monitors the activity. Dens or burrows of these species shall not be destroyed unless it is determined that the den/burrow is not occupied. In no case shall a San Joaquin kit fox natal den or known den be destroyed without the concurrence of the USFWS and CDFW and appropriate artificial den replacements are provided.*

*San Joaquin Kit Fox*

- *Potential Den – 50-feet*
- *Atypical Den – 50-feet (includes pipes and other man-made structures)*
- *Known Den – 100-feet*
- *Natal/Pupping Den – 500-feet*

*American Badger*

- *Known Den — 100-feet*

***The applicants shall assess presence/absence of SJKF by conducting surveys following the USFWS (2011) "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance." Specifically, CDFW advises conducting these surveys in all areas of potentially suitable habitat no less than 14-days and no more than 30-days prior to beginning of ground disturbing activities.***

***SJKF detection warrants consultation with CDFW to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP), pursuant to Fish and Game Code Section 2081(b).***

3. *Standard Avoidance and Minimization Measures for the San Joaquin kit fox and American badger. The following standard avoidance and minimization measures are recommended to be implemented:*
  - *Construction-related vehicles should observe a daytime speed limit of 20-mph throughout the site in all project areas, except on County and City roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction should be minimized to the extent possible. However, if night construction activities do occur, then the speed limit should be reduced to 10-mph. Off-road traffic outside of designated project areas should be prohibited.*
  - *To prevent inadvertent entrapment of kit foxes or other wildlife during the construction phase of the project, all excavated, steep-walled holes or trenches more than 2-feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks should be installed. Before such holes or trenches are filled, they should be thoroughly examined for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS and the CDFW should be contacted as noted below.*
  - *Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently*

*buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.*

- *All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in securely closed containers and removed at least once a week from a construction or project site.*
- *No pets, such as dogs or cats, should be permitted on the project site to prevent harassment, mortality of kit foxes, or destruction of dens.*
- *Use of rodenticides and herbicides in project areas should be restricted. This is necessary to prevent primary or secondary poisoning of special-status species and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and federal legislation, as well as additional project-related restrictions deemed necessary by the USFWS. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox.*
- *A representative should be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a special-status species or who finds a dead, injured, or entrapped special-status species. The representative will be identified during the employee education program and their name and telephone number should be provided to the USFWS.*
- *In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the USFWS should be contacted for guidance.*
- *Any person who is responsible for inadvertently killing or injuring a special-status animal species should immediately report the incident to their representative. This representative should contact the CDFW immediately in the case of a dead, injured, or entrapped special-status species. The CDFW contact for immediate assistance is State Dispatch at 916-445-0045. They will contact the local warden or wildlife biologist. The USFWS should be contacted at the number below.*
- *The region 8 Sacramento Fish and Wildlife Office and Region 4 CDFW should be notified in writing within three working days of the accidental death or injury to a kit fox during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The USFWS*

*contact is the Chief of the Division of Endangered Species, at the addresses and telephone numbers below.*

*U.S. Fish and Wildlife Service  
Region 8 – California and Nevada  
2800 Cottage Way  
Sacramento, CA 95825  
Contact: Tim Ludwick  
Phone: 916-414-6464*

- *New sightings of kit fox should be reported to the CNDDDB. A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed should also be provided to the appropriate wildlife agencies.*
4. *Den Avoidance. In the event that a potential den that may be suitable for American badger, San Joaquin, or burrowing owl is detected during pre-activity clearance surveys, the biologist should monitor the den using cameras and tracking medium for five days to determine if the den is occupied by a special-status species. If after five (5) days no activity is detected, then the den can be backfilled. Construction personnel may collapse the den only under the direct supervision of the biologist. If a special-status species is detected using the den, the den must be avoided until the animal leaves on its own. A minimum 100-foot buffer should be constructed using orange construction fencing around the den during the nonbreeding season (April to November). During the breeding season (December to March), the buffer should be extended to 250 feet. Consultation with the USFWS and/or CDFW will be required prior to collapsing dens known to be occupied by kit foxes. If authorized by the CDFW, passive relocation of wildlife may be accomplished using one-way doors to exclude wildlife from dens. An exclusion plan approved by CDFW would be required prior to the installation of one-way doors.*
  5. *If project activities are planned to start during the migratory bird nesting season, February 1 to September 15, a pre-activity nesting bird survey should be conducted within seven (7) days of the start of these activities. These surveys should be phased with construction of the project. If active nests are detected during the survey, or at any time during construction of the project, an avoidance buffer will be established by a qualified biologist based on the species and the activities that are underway. For raptor species (except Swainson's hawk), the avoidance will typically be 500 feet. For non-raptor species, the buffer will be 250-feet. Note that some bird species are known to nest on human structures, including construction equipment. Construction personnel should be educated about this possibility as part of the employee education program. ~~included under measure BIO-7~~*

**Without appropriate avoidance and minimization measures for. SWHA, potential significant impacts associated with the Project's construction include: nest**

abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Trees within ½-mile of the Project area represent some of the only remaining suitable nesting habitat in the vicinity, which is otherwise intensively managed for agriculture. In addition, the Project area includes low growing crops, which may provide foraging habitat for SWHA. The presence of these two requisite habitat features increases the likelihood of occurrence of SWHA. The primary threat to SWHA in California is loss of foraging and nesting habitat resulting from urban development and incompatible agriculture (CDFW 2016). Depending on timing, ground-disturbing activities that have the potential to result from the Project including noise, vibration, and movement of workers or equipment, could affect SWHA nests and have the potential to result in nest abandonment, potentially significantly impacting local nesting SWHA.

**6. To mitigate impacts to the Swainson's Hawk (SWHA), the following measures shall be implemented:**

***Construction be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting raptors following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) prior to project initiation. In addition, CDFW recommends that a qualified biologist conduct additional pre-construction surveys for active nests no more than 10-days prior to the start of construction.***

***If an active SWHA nest is found during pre-construction surveys, CDFW recommends implementation of a minimum ½-mile no-disturbance buffer until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.***

***If the ½-mile no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, acquisition of an ITP for SWHA is necessary prior to project implementation, pursuant to Fish and Game Code Section 2081(b) to comply with CESASwainson's Hawk Avoidance and Minimization.***

~~*If project activities are planned to start during the Swainson's hawk nesting season, March 20 to July 30, a pre-activity nesting bird survey should be conducted within seven (7) days of the start of these activities. These surveys should be phased with construction of the project site. A report of survey findings should be provided to the County to confirm compliance with this measure. If an active Swainson's hawk nest is present on-site, no work may occur within 0.5 mile of the nest without consultation with the CDFW.*~~

The Giant Garter Snake (GGS) has the potential to be present in or near Project sites. As documented in CNDDDB, GGS are known to occur in the Fresno Slough (CDFW 2019) and the species is known to occupy managed waterways, including those managed for agricultural irrigation (USFWS 2017). Potential significant impacts associated with Project construction include burrow excavation and collapse, inadvertent entrapment, and direct mortality of individuals.

***7. To mitigate impacts to the Giant Garter Snake (GGS), the following measures shall be implemented:***

***A qualified biologist shall conduct a habitat assessment well in advance of project implementation, to determine if the Project area or its vicinity contains suitable habitat for GGS.***

***No more than 30-days prior to ground-disturbing activities, a qualified biologist with GGS experience and knowledge of its ecology survey the work area and a minimum 50-foot radius of the work area for burrows and crevices in which GGS could be present. It is advised that all potentially suitable burrows and cervices be flagged and avoided by a minimum 50-foot no disturbance buffer. If a 50-foot radius buffer isn't feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take.***

***If take cannot be avoided, acquisition of an ITP would be required prior to Project implementation to comply with CESA. Capture and relocation of any species listed under CESA would require an ITP from CDFW, as capture (or attempt to do so) is defined as take under Fish and Game Code Section 86.***

Burrowing Owl (BUOW) have been documented within the vicinity of the Project area. BUOW occupy treeless open areas that contain small mammal burrows (Zeiner et al. 1990). BUOW can also occupy burrows within the banks of earthen canals (Coulombe 1971 ). Review of aerial imagery indicates that the Project area contains both of these land cover types. The Project area likely also provides suitable foraging habitat for BUOW. The presence of these land cover types increases the likelihood of BUOW occurrence both on and within the vicinity of the Project area. Potentially significant direct impacts associated with the Project's construction include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

***8. To mitigate impacts to the Burrowing Owl (BUOW), the following measures shall be implemented:***

***The applicant shall assess presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl***



**Consortium's (CBOC) "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012). In addition, CDFW advises that surveys include a 500-foot buffer around the Project area.**

**Since BUOW occupy burrow habitat year-round, CDFW recommends seasonal no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities associated with Project implementation. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.**

**If BUOW are found to occupy the Project site and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1 :1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance of the Project site during Project activities, at a rate that is sufficient to detect BUOW if they return.**

9. *Worker Environmental Awareness Training.* Prior to the initiation of construction and for the duration of project construction and maintenance activities that could affect natural habitat, all new personnel should attend a Construction Personnel Environmental Awareness Training and Education Program. The program should be developed by a qualified biologist. Any employee responsible for the operation and maintenance (O&M) of the completed facilities should also attend the Construction Personnel Environmental Awareness Training and Education Program.
  - a. The program should include information on the life history of the burrowing owl, American badger, San Joaquin kit fox, Swainson's hawk, migratory birds and raptors, and special-status plant species that may be encountered during construction and operations and maintenance activities.
  - b. The program should discuss each species' legal protection, status, the definition of "take" under the Endangered Species Act, measures the project

*operator must implement to protect the species, reporting requirements, specific measures that each worker should employ to avoid take of wildlife species, and penalties for violation of the State and federal ESAs.*

*c. The program should provide information on how and where to bring injured animals for treatment in the case any animals are injured on the project site, and how to document animal mortalities and injuries.*

*d. An attendance form signed by each worker indicating that environmental training has been completed will be kept on record.*

- C. Have a substantial adverse effect on state or federally-protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Reviews of the National Wetlands Inventory (NWI; USFWS 2019b) and National Hydrography Dataset (USGS 2019) were completed to identify whether wetlands had previously been documented on or adjacent to the project site. There are five defined waters or wetlands on or near the project site.

The United States Army Corps of Engineers (USACE) has regulatory authority over the Clean Water Act (CWA), as provided for by the EPA. The USACE has established specific criteria for the determination of wetlands based upon the presence of wetland hydrology, hydric soils, and hydrophilic vegetation. There are no federally-protected wetlands or vernal pools that occur within the project site.

Wetlands, streams, reservoirs, sloughs, and ponds typically meet the criteria for federal jurisdiction under Section 404 of the CWA and State jurisdiction under the Porter-Cologne Water Quality Control Act. Streams and ponds typically meet the criteria for State jurisdiction under Section 1602 of the California Fish and Game Code. There are no features on the project site that would meet the criteria for either federal or State jurisdiction. No waters of the U.S., including wetlands, or waters of the State were observed on the project site. Therefore, the project would not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the CWA. Accordingly, there are no wetlands or Waters of the U.S. occurring on the project site. There would be no impact to federally protected wetlands or waterways as a result of the proposed project. Therefore, impacts would be considered less than significant.

However, the gathering lines will cross several existing irrigation drainages or canals, as well as the Stinson Canal. Stinson Canal may be considered Waters of the US or Waters of the State. As proposed, the pipeline will be installed using either a jack and bore method or an open cut method to traverse the Stinson Canal. If the jack and bore method is used, there would be no disturbance of the drainage bed and bank, and therefore impacts would be considered less than significant. If the open cut method is used, as required by BIO-8, prior to the commencement of gathering pipeline

construction, a jurisdictional delineation of the Stinson Canal would be conducted by a qualified biologist to determine if the drainage was considered Waters of the US or Waters of the State, identify the bed and bank, and determine the amount of disturbance area that would be required. Applications for the appropriate permits such as a 401 water quality certification, a Section 404 permit or a Section 1602 permit would be obtained prior to any construction activities. Implementation of BIO-8 would reduce impacts to less than significant.

\* **Mitigation Measure(s)**

8. *Prior to the issuance of building permits, if Stinson Canal cannot be avoided, specific impacts on the features shall be quantified by an aquatic resources delineation prepared by a qualified biologist. A Central Valley Regional Water Quality Control Board Section 401 Water Quality Certification, a Section 404 ACOE permit and Section 1602 California Department of Fish and Wildlife Streambed Alteration Agreement shall be obtained, or confirmation received from these agencies that regulatory permits are not required.*
9. ***A formal stream mapping and wetland delineation shall be conducted by a qualified biologist to determine the location and extent of streams (including any floodplain) and wetlands within and adjacent to the Project area. Please note that, while there is overlap, State and Federal definitions of wetlands as well as what activities require Notification pursuant to Fish and Game Code Section 1602 differ.***

***Therefore, it is advised that the wetland delineation identify both State and Federal wetlands in the Project area as well as what activities may require Notification to comply with Fish and Game Code. Fish and Game Code Section 2785 (g) defines wetlands; further, Section 1600 et seq. applies to any area within the bed, channel, or bank of any river, stream, or lake. It is important to note that while accurate wetland delineations by qualified individuals have resulted in more rapid review and response from USACE and CDFW, substandard or inaccurate delineations have resulted in unnecessary time delays for applicants due to insufficient, incomplete, or conflicting data. CDFW advises that site map(s) designating wetlands as well as the location of any activities that may affect a lake or stream be included with any Project site evaluations.***

***Fish and Game Code Section 1600 et seq. requires an entity to notify CDFW prior to commencing any activity that may: (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. For additional information on Notification requirements, please contact our staff in the LSA Program at (559) 243-4593.***

- D. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

FINDING: NO IMPACT:

The project would have no impacts to wildlife movement corridors or wildlife nursery sites and no mitigation measures are required. No fisheries resources that would be impacted by the project and no mitigation measures are warranted.

- E. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- F. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan?

FINDING: NO IMPACT:

The project will not conflict with local policies or ordinances protecting biological resources or a tree preservation policy. The project is within the PG&E Habitat Conservation Plan (HCP) covered areas; however, the HCP is limited to PG&E maintenance activities. The project will not impact or conflict with the PG&E HCP and will not conflict with any Natural Conservation Community Plans or other approved conservation plans in the project area. Therefore, the project will not conflict with adopted or approved plans.

## V. CULTURAL RESOURCES

Would the project:

- A. Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5; or
- B. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5; or
- C. Disturb any human remains, including those interred outside of formal cemeteries?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The project is located in an area of moderate archeological sensitivity. The applicant's consultant, QK, evaluated the project site and conducted a Cultural Resources Records Search. The purpose of the search was to determine whether any known cultural resources or previously conducted cultural resource surveys were located on or near the subject property, and whether construction of the project would impact any known or

potential cultural resources. The records search covered an area within one-half mile of the project and included a review of the *National Register of Historic Places, California Points of Historical Interest, California Registry of Historic Resources, California Historical Landmarks, California State Historic Resources Inventory*, and a review of cultural resource reports on file.

The records search indicated that one previous linear cultural resource survey had intersected with the project route near the center of Section 5, T.17S, R.18E (MDB&M). No other studies have been done along the route. One additional cultural resource study was conducted within a half mile of the project. No cultural resources have been recorded along the project route and it is not known if any exist there. One cultural resource has been recorded within a half mile of the project. This is the historic Stinson Canal that was built between 1891 and 1900.

Based on the results of cultural records search findings and the lack of historical or archaeological resources previously identified within a 0.5-mile radius of the proposed project, the potential to encounter subsurface cultural resources is minimal. However, there is still a possibility that historical or archaeological materials may be exposed during construction or trenching for underground pipes. Grading and trenching, as well as other ground-disturbing actions have the potential to damage or destroy these previously unidentified and potentially significant cultural resources within the project area, including historical or archaeological resources. Implementation of Mitigation Measure 1 would reduce the potential impacts on cultural resources, including historical resources associated with the proposed project to less than significant levels.

\* **Mitigation Measure(s)**

1. *In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.*

VI. ENERGY

Would the project:

- A. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation; or
- B. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project will produce renewable energy in the form of gas and electricity. Some energy will be expended during construction, but it is not expected to be wasteful or unnecessary with adherence to standard construction practices. The project will not conflict with or obstruct a state or local plan for renewable energy.

VII. GEOLOGY AND SOILS

Would the project:

- A. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
  - 1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?
  - 2. Strong seismic ground shaking?
  - 3. Seismic-related ground failure, including liquefaction?
  - 4. Landslides?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The topography of the site is relatively flat with little topographic variation. The project area is located geographically east of the San Andres Fault and is to the east of the Coast Range. Figure 9-5 of the Fresno County General Plan Background Report (FCGPBR) indicates that the project site is located in an area where ground acceleration due to seismic hazards has only a 10% chance to exceed 20%g (speed of gravity) within the next 50 years. The structures associated with this project will be subject to building standards at the time of development, which include specific regulations to protect against damage caused by earthquake and/or ground acceleration.

Figure 9-6 (FCGPBR) shows that the project site is not in an area of moderate or high landslide hazards and the project site is generally flat, precluding site-specific risk factors. The site is however, in an area of deep subsidence. With required compliance to the Fresno County Building code, development of this project will have a less than significant impact on the risk of adverse effects due to rupture of a known earthquake, strong seismic ground shaking or ground-related failure, and landslides.

- B. Result in substantial soil erosion or loss of topsoil?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed improvements to the existing dairies will not represent a significant expansion of graded area. Any grading that is performed will require a grading permit or voucher and ministerial review of those permits will ensure that substantial erosion or loss of topsoil does not occur.

- C. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse; or
- D. Be located on expansive soil as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The area is underlain by three soil types, Tachi Clay, Armona Loam, and Gepford Clay. Tachi Clay is a very deep and very poorly drained soils that formed in alluvium derived from igneous and/or sedimentary rocks. It is typically found on flood plains on basin floors. These soils are used for irrigation crops such as cotton, fruits, and wheat. It is not a hydric soil. Armona Loam is very deep and poorly drained soil that formed in alluvium from igneous and/or sedimentary rock. It is typically found on flood plains on basin floors and basin rims. This soil is used for irrigated crops. Gepford Clay is a very deep and poorly drained soil that is formed in mixed alluvium derived predominately from granitic rocks, influenced by lacustrine sediments. It is typically found flood plains, basin floors, and basin rims. This soil is used as irrigated cropland including barley, grain, sorghum, and sugar beets. The soil can also be used for dairy and cattle production and building site development. It is not a hydric soil.

The project site is not located in an area that is at risk of on-site or offsite landslide, lateral spreading, liquefaction, or collapse, according to Figure 7-1 (FCGPBR), and will not be located on expansive soils. The project is located in an area of deep subsidence, however, the Fresno County Department of Public Works and Planning, Water and Natural Resources Division, had no concerns with the operation of this project as planned.

- E. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

FINDING: NO IMPACT:

The project currently operates with the use of the existing permitted septic systems. No new septic is proposed as part of this application.

- F. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

**FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:**

The subject parcel is located in an area which has been designated as moderately to archaeological or paleontological finds, however there are no known paleontological resources in the area. On March 29, 2019, the applicant provided a Cultural Resources Records Search Result, prepared by QK. No evidence of unique paleontological resources was noted in the report. However, there is still a possibility that paleontological or archaeological materials may be exposed during construction or trenching for underground pipes. Disturbance of any deposits of paleontological material that have the potential to provide significant scientific data would be considered a significant impact under CEQA. Implementation of the mitigation measure 1 (Cultural Resources, Section V, would reduce potential impacts on paleontological resources to less than significant.

\* **Mitigation Measure(s)**

1. See Mitigation Measure 1, Section V, above.

**VIII. GREENHOUSE GAS EMISSIONS**

Would the project:

- A. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or
- B. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

**FINDING: LESS THAN SIGNIFICANT IMPACT:**

Human activities, including fossil fuel combustion and land use changes, release carbon dioxide (CO<sub>2</sub>) and other compounds cumulatively termed greenhouse gases. GHGs are effective at trapping radiation that would otherwise escape the atmosphere. The SJVAPCD, a CEQA Trustee Agency for this project, has developed thresholds to determine significance of a proposed project – either implement Best Performance Standards or achieve a 29% reduction from Business as Usual (BAU) (a specific numerical threshold). On December 17, 2009, SJVAPCD adopted *Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA* (SJVAPCD 2009), which outlined the SJVAPCD's methodology for assessing a project's significance for GHGs under CEQA.

Project construction and operational activities would generate greenhouse gas (GHG) emissions. In the Air Quality Impact Analysis, GHG emissions were estimated using the California Emissions Estimator Model (CalEEMod) version 2016.3.2 (California Air Pollution Control Officers Association (CAPCOA) 2017), which is the most current version of the model approved for use by the San Joaquin Valley Air Pollution Control District (SJVAPCD).



The proposed project will be subject to any regulations developed under AB 32 as determined by CARB. In order for the project to be considered less than significant, it would need to conform with the goals of AB32. The proposed project is designed to capture methane gas, that would otherwise be emitted to the air from dairy operations, and convert it to renewable power. With the incorporation of electrical generation from a renewable resource the project would decrease overall GHG emissions. Therefore, the GHG emissions increases associated with this project would have a less than significant individual and cumulative impact on global climate change.

## IX. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

- A. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; or
- B. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Methane will be produced in anaerobic digesters by natural biological processes (the decomposition of manure waste). The digesters will be created by first double-lining a new or existing storage pond. All digester ponds will meet the Central Valley Regional Water Quality Control Board (CRWQCB) Tier 1 standards, which include the installation of double-layered liners of welded 60 ml High-density polyethylene (HDPE) with leak detection to ensure water quality. Once produced, the methane is transferred by pipe to a biogas generator and subsequently by the Five Points pipeline to the meter set assembly hub and then to the PG&E gas line injection point. All portions of the project will comply with Pipeline and Hazardous Materials Safety Administration (PHMSA) guidelines, 49 CFR Part 192, and with the CPUC's Safety Enforcement Division (SED) General Order 112-F.

Therefore, while the routine use of the hazardous methane gas will occur, risk to the public as a result of its transport or accidental release is less than significant. The operator is required to maintain an emergency response plan. With compliance to the existing regulations and the operation of the digester system distant from nearby residences, there will be a less than significant impact on public hazards as a result of the transport or use of hazardous materials.

- C. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

FINDING: NO IMPACT:

The project is not located within one quarter-mile of an existing or proposed school.

- D. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

FINDING: NO IMPACT:

Review of the US EPA's NEPAAssist report indicates that there are no hazardous or contaminated sites within one mile of the project site. The following lists were consulted: Resource Conservation and Recovery Act (RCRA), Toxic Releases Inventory (TRI), Superfund/National Priorities List, Brownfields Assessment Cleanup and Redevelopment Exchange System (ACRES), RADInfo, and Toxic Substances Control Act.

- E. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project is not located within an airport land use plan or within two miles of a public airport or public use airport. The project is located adjacent to a private use airport (crop dusting) at the intersection of W. Barrett and S. Bishop Avenues, however, based on land use, and limited residences and workforce needed for the operation of project, the airport safety risk and noise will be minimal.

- F. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
- G. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

FINDING: NO IMPACT:

Approval of this project will not impair the implementation of an Emergency Response Plan or Emergency Evacuation Plan. Following construction, there will be a negligible increase in the amount of traffic generated by this project for maintenance and operation of the system. The project site is located in an area of local responsibility for fire protection and is not at significant risk of damage due to wildfire.

## X. HYDROLOGY AND WATER QUALITY

Would the project:

- A. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality; or
- B. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project area is adjacent to several riverine or canal features. There are four unnamed blue line streams (irrigation canals) and the Stinson Canal that are intersected or traversed by the project area. Two of the canal features are present along the north side of the project approximately 0.5-miles east of the Vander Hoek Dairy. Another canal is located northwest of the Van Der Kooi Dairy along W. Elkhorn Avenue. Another unnamed canal and the Stinson Canal are located along north of W. Cerini Avenue and S. Bishop Avenue, northwest of the J&D Wilson and Sons Dairy. The Fresno Slough is approximately 0.4 miles east of the project, which will not be impacted. Portions of the project are located within the 1% annual chance of flood (500-year flood zone) or an area of minimal flood hazard zone

No concerns related to groundwater supplies were expressed by any of the reviewing agencies or departments.

The subject dairies are required to enroll under Waste Discharge Requirements, which is associated with a monitoring and reporting program. The Central Valley Regional Water Quality Control Board is responsible for monitoring the quality of water produced by this dairy. With the technical reports required by the Digester Order and associated operational requirements, this project will be in compliance with the Water Boards' standards and will not violate any water quality standards

- C. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
  - 1. Result in substantial erosion or siltation on or off site?
  - 2. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site?
  - 3. Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff; or
  - 4. Impede or redirect flood flows?

FINDING: NO IMPACT:

The project will not result in the alteration of an existing drainage pattern of any of the individual sites or the larger project area. The project site is not located in an area of special flood hazard; however, all development in the County of Fresno that involves grading is required to obtain a grading permit or voucher. Compliance to the provisions in the permit or voucher will ensure that excessive flooding and erosion do not occur.

- D. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

FINDING: NO IMPACT:

The proposed project is not located in an area prone to flood hazard, tsunami, or seiche.

- E. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

FINDING: NO IMPACT:

The project will not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

## XI. LAND USE AND PLANNING

Would the project:

- A. Physically divide an established community; or
- B. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

FINDING: NO IMPACT:

The community of Burrell is 1.3 miles east of the project; the community of Lanare is 2.8 miles east, the community of Five Points is four miles west; and the community of Helm is 1.5 miles north. Therefore, approval of this project does not have the potential to divide an established community. The proposed use is allowed in the County of Fresno with the approval of an Unclassified Conditional Use Permit, which will be reviewed by the Planning Commission concurrently with this Initial Study.

## XII. MINERAL RESOURCES

Would the project:

- A. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or

- B. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local General Plan, Specific Plan or other land use plan?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed project is located in an identified oil production zone, per the Fresno County General Plan Background Report (FCGPBR). This proposal was reviewed by the California Department of Conservation, Division of Oil Gas and Geothermal Resources (DOGGR). DOGGR comments and map exhibits indicate the presence of a number of abandoned oil and gas wells in the vicinity of the project and located on some of the parcels directly involved with this project, however the Division expressed no further concerns with this proposal, provided that construction does not build over or impede access to the abandoned well sites.

### XIII. NOISE

Would the project result in:

- A. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; or
- B. Generation of excessive ground-borne vibration or ground-borne noise levels; or
- C. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels; or

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project is not located within an airport land use plan or within two miles of a public airport or public use airport. The project is located adjacent to a private use airport (crop dusting) at the intersection of W. Barrett and S. Bishop Avenues, however, that use is not expected to expose people in the project area to excessive noise levels. Noise generated by the project equipment will not be above typical agriculture facility levels and the project is distant to sensitive receptors. Therefore, due to the project's distance from sensitive receptors, there will be no increase in the exposure of persons to severe or adverse noise levels or ground borne noise or vibration.

### XIV. POPULATION AND HOUSING

Would the project:

- A. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?; or
- B. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

FINDING: NO IMPACT:

Approval of this project would allow methane produced by the manure of cows to produce renewable energy, which would be sold to PG&E. This will not induce substantial population growth because it will not create a significant number of new job opportunities or otherwise increase the desirability of living in this area. No housing will be displaced as a result of this project. This project similarly will not displace substantial numbers of people. It will be developed on areas of farmland that were previously dedicated to agricultural production.

#### XV. PUBLIC SERVICES

Would the project:

- A. Result in substantial adverse physical impacts associated with the provision of new or physically-altered governmental facilities, or the need for new or physically-altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:
  - 1. Fire protection;
  - 2. Police protection;
  - 3. Schools;
  - 4. Parks; or
  - 5. Other public facilities?

FINDING: NO IMPACT:

This project will not increase the need for public facilities associated with fire or police protection. As this project will not lead to population growth, there will be no impacts on schools or parks. Any structures associated with this project will be reviewed by the Fresno County Fire Protection District to ensure compliance with California Code of Regulations Title 24 – Fire Code.

#### XVI. RECREATION

Would the project:

- A. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or
- B. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

FINDING: NO IMPACT:

This project will not increase the use of existing neighborhood and regional parks. There are no such facilities in the vicinity of the project and the request to add anaerobic digesters and a pipeline to convey methane gas will not result in population expansion.

## XVII. TRANSPORTATION

Would the project:

- A. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities; or
- B. Be in conflict or be inconsistent with the California Environmental Quality Act (CEQA) Guidelines Section 15064.3, subdivision (b); or
- C. Substantially increase hazards due to a geometric design feature (*e.g.*, sharp curves or dangerous intersections) or incompatible uses (*e.g.*, farm equipment); or
- D. Result in inadequate emergency access?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Operation of this facility will require less than 10 round trips per day by service and delivery vehicles. The addition of 1-2 trips per month for maintenance of the digesters and related facilities will not conflict with any circulation plans or contribute to existing congestion of nearby County streets. Streets in the area are rectilinear, crossing at 90 degree angles and do not have sharp curves. There are no plans, policies, or programs that relate to public transit, bicycle, or pedestrian facilities in this area. The surrounding development consists of large parcels, which have been planted with row crops or support dairies similar to the project site.

## XVIII. TRIBAL CULTURAL RESOURCES

Would the project:

- A. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place,

cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k); or
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? (In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.)

**FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:**

Under the provisions of Assembly Bill 52, the County of Fresno was required to provide notice that this Initial Study was being prepared to Native American Tribes who had previously indicated interest in reviewing CEQA projects. Notices were sent on April 19, 2019, to Robert Ledger of the Dumna Wo Wah, Robert Pennell of Table Mountain Rancheria, Ruben Barrios of Santa Rosa Rancheria and to Tara Estes-Harter of the Picayune Rancheria of Chukchansi Indians. None of the Tribal Governments responded to the notice.

The project is located in an area of moderate archeological sensitivity. The applicant's consultant, QK, evaluated the project site and conducted a Cultural Resources Records Search. The purpose of the search was to determine whether any known cultural resources or previously conducted cultural resource surveys were located on or near the subject property, and whether construction of the project would impact any known or potential cultural resources. See the discussion in Section V, above.

Despite the failure of the tribes and historical databases to identify known tribal cultural resources, the potential exists for significant artifacts to be excavated during construction. Therefore, the following mitigation measure is proposed to ensure that impacts to previously unknown tribal cultural resources can be reduced to less than significant.

\* **Mitigation Measure(s)**

1. See Mitigation Measure 1, Section V, above.

**XIX. UTILITIES AND SERVICE SYSTEMS**

Would the project:



- A. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

FINDING: NO IMPACT:

The project will not require construction or expansion of new water or wastewater treatment facilities. Approximately 5,000 gallons/day will be used during the 40-day construction period and will be provided by on-site wells. Operational water is anticipated to be 2,500 gallons/day or 2.8 AF annually.

The inclusion of the digesters will add an additional step between collection of manure from the herd and application of the wastewater to the surrounding fields. Wastewater is not exported to any offsite system for processing. It is retained on site and used for irrigation, typically after being diluted with fresh water. The project site is not in an area that is known to be short of water, so there are no concerns that the limited increase in use will result in the need to obtain additional water entitlements.

- B. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

FINDING: NO IMPACT:

The project is not in a water short area and is served by on-site wells. The Water and Natural Resources Division had no concerns with the project.

- C. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; or
- D. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals; or
- E. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Upon completion of construction, the applicants will be required to submit technical reports to the Central Valley Regional Water Quality Control Board. These submissions are required by Provisions in Section E of the Digester Order. The operation will also be required to obtain a permit to operate a Solid Waste Facility from the County of Fresno, Environmental Health Division, acting as the Local Enforcement Agency. The need to comply with the Digester Order and other regulations enforced by the Water Quality Control Board will ensure that there is no adverse impact regarding noncompliance with statutes and regulations related to solid waste.

XX. WILDFIRE

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

- A. Substantially impair an adopted emergency response plan or emergency evacuation plan, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects; or
- B. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire; or
- C. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or
- D. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

FINDING: NO IMPACT:

The project is not located in or near a state responsibility area or land classified as very high fire hazard severity zones, and will not impair an adopted emergency response or evacuation plan. The project will adhere to the site development and operational requirements of the Fresno County Fire Protection District.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

Would the project:

- A. Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The pipeline route will run through private agricultural land. The presence of special-status species on these sites prior to ground disturbance cannot be positively determined. Based upon habitat conditions surrounding the site and the assumption that the site contain similar habitat characteristics, it is possible that the Swainson's hawk, western burrowing owl, tricolored blackbird, loggerhead shrike, American badger, San

Joaquin kit fox, long-billed curlew, and yellow-headed blackbird may have been present prior to site disturbances. Therefore, the Mitigation Measures noted in Section IV. will be implemented, requiring preconstruction surveys and avoidance measures if construction occurs during the nesting season.

In addition, it is unlikely but possible that previously undiscovered subsurface paleontological, cultural or tribal resources are present in the proposed area of development. Implementation of the mitigation measure in Section V, which describes avoidance and reporting requirements, will ensure that impacts are less than significant.

\* **Mitigation Measures**

1. See Section IV.

2. See Section V.

- B. Have impacts that are individually limited, but cumulatively considerable (“cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Emissions of criteria pollutants from this project will be consistent with the State Implementation Plan administered by the San Joaquin Valley Air Pollution Control District. The proposed improvements do not represent a substantial increase in the size of the dairy and will not result in adverse cumulative aesthetic or odor impacts. The proposed digester will capture some of the methane that is currently released into the air by the natural decomposition of manure and will convert it into electricity. Said power will be sold to PG&E, providing a source of renewable energy.

- C. Have environmental effects which will cause substantial adverse effects on human beings either directly or indirectly?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed improvements will generally decrease the odor in the area of the project site and will contribute renewable energy to be transferred to PG&E operations.

## **CONCLUSION/SUMMARY**

Based upon the Initial Study prepared for Unclassified Conditional Use Permit Application Nos. 3642-3647, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to Land Use and Planning, Population and Housing, Public Services and Wildfire.

Potential impacts related to Agriculture, Air Quality, Energy, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Noise, Utilities and Service Systems, and Transportation have been determined to be less than significant. Potential impacts relating to Aesthetics, Biological Resources, Cultural Resources, Geology and Soils, and Tribal Cultural Resources have determined to be less than significant with compliance with noted Mitigation Measures.

A Mitigated Negative Declaration/Negative Declaration is recommended and is subject to approval by the decision-making body. The Initial Study is available for review at 2220 Tulare Street, Suite A, street level, located on the southwest corner of Tulare and "M" Street, Fresno, California.

JS

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