



# County of Fresno

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

## Planning Commission Staff Report Agenda Item No. 2 August 13, 2020

**SUBJECT:** Unclassified Conditional Use Permit Application No. 3662

Amend approved Conditional Use Permit (CUP) No. 3580 in order to allow the installation and operation of a Bloom Fuel Cell Energy Server. The proposed server would intake biogas produced by the digester in order to produce energy. The application would be installed in two phases: a 2-MW Bloom Server sized for current operations and a later upgrade to a 3-MW Bloom Server at such time as the dairy consolidation approved as part of CUP No. 3580 occurs.

**LOCATION:** The subject parcel is located on the south side of Whitesbridge Avenue, between San Mateo Avenue and James Road, addressed as 24387 W. Whitesbridge Avenue, Kerman (Sup. Dist.1) (APN 015-100-21S).

**OWNER/APPLICANT:** Stephen Shehadey

**STAFF CONTACT:** Chrissy Monfette, Planner  
(559) 600-4245

Dave Randall, Senior Planner  
(559) 600-4052

### RECOMMENDATION:

- Move to determine that the required Findings can be made and move to approve Unclassified Conditional Use Permit Application No. 3662 with recommended Findings and Conditions; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Mitigation Monitoring, Conditions of Approval and Project Notes
2. Approved Mitigation Measures, Conditions of Approval, and Notes for CUP No. 3580
3. Location Map
4. Existing Zoning Map
5. Existing Land Use Map
6. Site Plans and Detail Drawings
7. Elevations
8. Applicant's Operational Statement
9. Summary of Initial Study No. 7318

**SITE DEVELOPMENT AND OPERATIONAL INFORMATION:**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
General Plan Designation	Agriculture	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)	No change
Parcel Size	324.66-acre	No change
Project Site	A dairy with related improvements on a 324.66-acre parcel.	New digester to collect methane (biogas) approved by CUP 3580 (not yet constructed); transfer of herd from nearby dairy approved by CUP 3580 (not yet consolidated); and new Bloom Fuel Cell Energy Server
Structural Improvements	Open lot corrals, weening pens, calf barns, freestall barns, milk barn, vet barn, wastewater retention ponds, wastewater process pits, weeping wall system	New digester with new irrigation pond and mechanical pad for equipment approved by CUP 3580 (not yet constructed); and new Bloom Fuel Cell Energy Server
Nearest Residence	~100 feet west of property line	No change

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
Surrounding Development	Dairy, grazing, orchards, and row crops	Closure of nearby dairy as described by CUP 3580
Operational Features	Existing dairy operates 24 hours per day, 7 days per week; milk cows are milked twice each day; other staff works between 4:00 AM and 6:00 PM; milk is picked up several times each day; solid manure and liquid waste is applied to contiguous farmland; some solid manure is delivered offsite	Two new freetail barns and new digester not yet constructed approved by CUP 3580; and new Bloom Fuel Cell Energy Server which would generate electricity powered by the methane produced by the digester. All improvements would operate around the clock as necessary.
Employees	Approximately 80	No change (Maintenance staff for digester and server are not retained by the applicant)
Customers	None	No change
Traffic Trips	80 Employee trips, 15 salesman trips, 8 delivery trips	2-4 trip per month increase to number of maintenance and service trips
Lighting	As existing	No change
Hours of Operation	Dairy is in continuous operation; typical employee hours range between 4:00 AM and 6:00 PM	No change

\*As measured from the subject property line to the nearest point of residence

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

**ENVIRONMENTAL ANALYSIS:**

An Initial Study (IS) was prepared for CUP No. 3580 by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on the IS, staff determined that a Mitigated Negative Declaration (MND) was appropriate and The Planning Commission acted to adopt the MND at its hearing of March 29, 2018. A time extension for CUP 3580 was approved by the Planning Commission on June 25, 2020, allowing one additional year for the applicant to achieve substantial development with that application. The current proposal is to amend the approved CUP 3580 to allow the addition of the Bloom Fuel Cell Server to the proposed digester and dairy operation.

In accordance with CEQA Guidelines Section 15162, when an Environmental Impact Report or Negative Declaration has been adopted for a project, no subsequent environmental document is

necessary, unless the lead agency (in this case, the County of Fresno) determines that one of the following thresholds has been met:

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 the 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 the 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 EIR was certified as complete or the previous Negative Declaration was adopted, shows any of the following:
  - a. The project will have one or more significant effects not discussed in 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.

*(CEQA Guidelines Section 15162(a))*

In the case of this application, Staff determined that the thresholds described by §15162 were not met due to the limited increase in impacts associated with the proposed Bloom Fuel Cell Server. The improvements are located generally within the existing project footprint and will be made a part of the complete waste management system which is comprised of the dairy operation, the digester, and the bloom cell server. All Mitigation Measures proposed by Initial Study No. 7318 apply to this project and mitigate any potentially significant impacts to a level that is less than significant. No new impacts were identified as part of this review. Therefore, the thresholds described above were not met and no supplemental or revised Environmental Review of this application is required.

**PUBLIC NOTICE:**

Notices were sent to 8 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 Application may be approved only if Five Findings specified in the Fresno County Zoning Ordinance, Section 873-F are made by the Planning Commission.

**BACKGROUND INFORMATION:**

The subject parcel was originally zoned A-1 (Agricultural) as established by the Board of Supervisors on June 8, 1960. On August 31, 1976 the zoning was amended to its current AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District by way of County-initiated Amendment Application No. 2870.

Unclassified Conditional Use Permit No. 3215 was approved by the Planning Commission on January 4, 2008 to allow the installation and operation of an anaerobic digester facility at the subject dairy and a 5.5-mile pipeline that would connect to an existing PG&E pipeline. One time extension was approved for the Unclassified CUP, but the proposed digester and pipeline were not constructed, resulting in the expiration of that permit.

The dairy on the subject parcel was operating under the provisions of County Ordinance Section 869, which discusses regulations for the siting and operation of commercial cattle dairies, prior to approval of CUP No. 3580. As this dairy had obtained all required permits prior to the adoption of Section 869, the property owner was not required to apply for a Conditional Use Permit in order to continue dairy operations; however, the proposed consolidation of two dairies was a sufficient increase to require the approval of an Unclassified Conditional Use Permit, CUP No. 3580

The expansion of the dairy described by the approved CUP No. 3580 was comprised of three separate requests: allow the installation and operation of a new digester, allow an increase in herd size due to a transfer of animals from an adjacent dairy, and allow the construction of new freestall barns to house said animals. CUP 3580 was approved by the Planning Commission on March 29, 2018 and a time extension was approved on June 25, 2020 to allow one additional year to exercise the permit. At this time, no improvements related to CUP 3580 have been built on the project site.

*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): 700+ feet Side (east):~700 feet Side (west): 40 feet Rear(south): ~75 feet	Y Y Y Y
Parking	One off-street parking space for each two permanent employees; one parking space for each company-owned truck; one	~100 parking spaces existing (no change)	Y

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
	parking space for each company salesperson		
Lot Coverage	No requirement	N/A	N/A
Space Between Buildings	Six-foot minimum	More than six feet	Y
Wall Requirements	No requirement	N/A	N/A
Septic Replacement Area	100 percent	No change	Y
Water Well Separation	Septic Tank: 50 feet; Disposal Field: 100 feet Seepage pit: 150 feet	No change	Y

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

Fresno County Department of Public Works and Planning Building Department: Plans, permits, and inspections will be required for onsite improvements.

Fresno County Department of Public Works and Planning Zoning Division: All proposed improvements will require permits. The project site is located in an area which is subject to flooding from the 100-year storm.

Fresno County Department of Public Works and Planning Development Engineering Division: According to FEMA FIRM Panel 2050H, a large portion of the property is found to be under Flood Zone A which is subject to flooding from the 100-year storm. Any development within the designated flood zone shall conform to provisions established in Fresno County Ordinance Code Title 15, Chapter 15.48 Flood Hazard Areas. Note that grading import is not allowed for the development of the proposed work within the flood zone. Any dirt material used for grading must be obtained within the designated flood area as to not cause an impact to the determined area of flooding. Furthermore, any associated electrical equipment/electrical system components including manure storage and drying location shall be above the Base Flood Elevation per FEMA requirements.

A grading permit or voucher is required for any grading proposed with this application. If the proposed development does not increase the net impervious surface on-site and the existing drainage patterns are not changed, there will be no engineered grading and drainage plan required.

FEMA Elevation Certificate is required for every structure proposed to be constructed within the flood zone. If proposed work is outside the flood zone, a certified Map of Survey/Map of Flood Hazard Area, stamped and signed by a Professional Land Surveyor delineating the distances from proposed structure(s) to the flood zone boundary and property lines may be required. No permits will be issued until a certified Map of Survey/Map of Flood Hazard Area and/or FEMA Elevation Certificate is reviewed and accepted by the Grading Engineer.

Any additional storm water runoff generated by the proposed development cannot be drained across property lines, or into the Caltrans right-of-way, and must be retained on site per County standards.

Fresno County Fire Protection District: This project shall comply with California Code of Regulations Title 24 – Fire Code. Prior to receiving Fresno County Fire Protection District (FCFPD) conditions of approval for this project, the applicant/developer must submit construction plans to the County of Fresno Public Works and Planning for review. It is the Applicant/Developer’s responsibility to deliver a minimum of three sets of plans to the FCFPD.

This project shall annex to Community Facilities District No. 2010-01 of the Fresno County Fire Protection District. The project also will be subject to the requirement of the current Fire Code and Building code when a building permit or certificate of occupancy is sought. Requirements for this project may include, but are not limited to water flow requirements, water storage requirements, fire pumps, road access, Public Resources Code 4290, fire hydrants, fire sprinklers system, fire alarm systems, premises identification, and title 15.60 County Ordinance.

The following agencies provided a “no comments” or “no concerns” response to the request for comments: Fresno County Department of Public Works and Planning Resources Division, Fresno County Department of Public Works and Planning Site Plan Review Division, and Fresno County Department of Public Works and Planning Water and Natural Resources Division.

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

### **Finding 1 Analysis:**

The subject parcel has been improved with a number of open lot corrals, eight freestall barns, a weeping wall system, two wastewater retention ponds, three wastewater process pits, weening pens, six calf barns, a veterinary barn, and a milk barn. These buildings currently meet the setback requirements of the AE-20 Zone District. The digester with mechanical pad and H<sub>2</sub>S scrubber approved by CUP No. 3580 will be located as far back as or further from the property lines than existing improvements. The freestall barns approved by CUP 3580 will be built in line with the existing barns and will therefore meet the setback standard.

The Bloom Fuel Cell Server proposed by the subject application will also be built further back from the property lines than existing improvements and therefore will not affect the existing setbacks. The area where the server is proposed is not currently improved and generally vacant of use.

The improvements proposed by this application and by CUP 3580 are located within an area which could be subject to flooding in the event of a 100-year storm. Requirements for building permits in this area include provisions in the Fresno County Ordinance Code Title 15 Chapter 15.48 Flood Hazard Areas. Compliance with these conditions ensures that new buildings will not result in significant deviation of flood flows.

A number of mitigation measures were proposed for CUP 3580 and therefore, apply to the subject application. These include the completion of preconstruction surveys to determine the presence (or absence) of special status species. The mitigation measure details certain actions which must be taken in the event that their presence is determined. Another mitigation measure details the steps which must be taken in the event that a previously undiscovered cultural, tribal

cultural, or paleontological artifact is uncovered during the course of construction. These steps require consultation with local Native American Tribes and require preservation of the artifact.

Staff finds that the site is adequate in size and shape to accommodate the proposed use.

**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	West Whitesbridge Avenue/Highway 180	No change
Public Road Frontage	Yes	2,660 feet	No change
Direct Access to Public Road	No	Two driveways off West Whitesbridge Avenue	No change
Road ADT		Not available	N/A
Road Classification		State Highway	No change
Road Width		40 feet	
Road Surface		Paved	No change
Traffic Trips		80 Employee trips, 15 salesman trips, 8 delivery trips	1-2 trip per month increase to number of maintenance and service trips for digester and server (2-4 total)
Traffic Impact Study (TIS) Prepared	No	Existing Dairy Traffic	Minor increase (up to 4/month)
Road Improvements Required		N/A	None

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



Fresno County Department of Public Works and Planning Development Engineering: Whitesbridge Road, which is also State Highway 180 is classified as a State Route per Fresno County General Plan Regional Circulation Diagram Figure TR-1a dated April 21, 2010. It is not a County-maintained road. Sonoma Avenue is a private road and is not County-maintained.

Any existing or proposed parking area should comply with the Fresno County Off-Street Parking Design Standards and any proposed driveway should be set back a minimum of 10 feet from the property line.

For unpaved or gravel surface access roads, the first 100 feet off of the edge of the road right-of-way must be graded and asphalt concrete paved or treated with dust palliative. Any existing or proposed entrance gate should be set back a minimum of 20 feet from the road right-of-way line or the length of the longest truck entering the site and shall not swing outward.

The following Agencies provided a “no comments” or “no concerns” response to the request for comments: Fresno County Department of Public Works and Planning Road Maintenance and Operations Division and Fresno County Department of Public Works and Planning Transportation Planning Division.

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

**Finding 2 Analysis:**

Review of CUP No. 3580 determined that traffic trips would be reduced as a result of the project due to the consolidation of two existing dairies, which resulted in fewer employee trips between the two sites and fewer delivery trips. This application for the Bloom Fuel Cell Server would not add any additional permanent staff to the site and would generate a few traffic trips per month for maintenance. This is fewer trips than the number reduced by the consolidation of the dairy and therefore will not cause adverse impacts to the roadway during operation.

The project has the potential to cause adverse impacts to the roadways during construction of the project, which is when the highest number of additional employees will be present on the site. This impact is expected to be temporary and is not anticipated to result in significant adverse impacts to the quality of the roads or the level of traffic congestion.

Based on the above information, West Whitesbridge Avenue is of sufficient width and pavement to accommodate 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	326 acres	Field Crops	AE-20	None
South	369 acres	Orchard	AE-20	None
East	424.48 acres	Field Crops, Single Family Residence	AE-20	~2,400 feet west
West	48.63 acres 10 acres 94.62 acres 60.92 acres	Grazing Grazing Grazing Grazing/Single Family Residence	AE-20	None None None ~100 feet west

\*As measured from the subject property line to the nearest point of residence

**Reviewing Agency/Department Comments:**

Fresno County Department of Public Health, Environmental Health Division:

- 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).
- Prior to issuance of building permits, the applicant will be required to submit complete construction plans and specifications for the new freestall barns for review and approval. Plans shall be submitted to California Department of Food and Agriculture, and County of Fresno, Environmental Health Division.
- Within 30 days of the occurrence of any of the following events the applicant/operators shall update their online Hazardous Materials Business Plan and site map
  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.

Fresno County Department of Public Works and Planning Water and Natural Resources Division: We have conducted a water supply evaluation for the proposed CUP and determined that the water supply is adequate to support the project

Fresno County Department of Public Works and Planning Development Engineering: all previous conditions of approval shall apply to the subject application.

The State Water Resources Control Board, Division of Drinking Water provided a “no comments” response to our request for comments.

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

**Finding 3 Analysis:**

This area is characterized by large parcels of land. Outside of the two dairies and a poultry facility located west of the project site, the land is used for grazing or field crops. The existing dairies are currently authorized to irrigate 24 parcels with treated wastewater produced by the current operations.

The dairy consolidation approved by CUP 3580 is likely to result in reduced odor impacts because the freestall barns reduce emissions as compared to the open corral barns at the dairy to be decommissioned.

Staff further determined that the approval of CUP 3580 would be likely to reduce odors at the project site because the manure which would previously been exposed to the open air would be retained inside the digester and the odorous gases converted to energy production. Compliance to the existing rules and regulations of the San Joaquin Valley Air Pollution Control District will ensure that dust and other air quality impacts do exceed significance thresholds.

There is one existing residence in the vicinity of the project site. This house is located approximately 100 feet west of the project site, approximately 600 feet north of the southern property line of the subject parcel. This building is more than 3,500 feet distant from the proposed improvements and therefore, impacts at this site are not likely to occur. A number of barns exist between the residence and the proposed improvements, providing additional screening.

The improvements proposed by the subject application are generally screened from public views and will be made a part of the complete digester system. Based on the above information, staff believes the proposal would not have an adverse effect upon surrounding properties.

**Recommended Conditions of Approval:**

*See recommended Conditions of Approval and Mitigation Measures 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><b>Policy LU-A.3:</b> The County may allow by discretionary permit in areas designated Agriculture, special agricultural uses and agriculturally-related activities, including value-added processing facilities, and certain nonagricultural uses listed in Table LU-3. Approval of these and similar uses in areas designated Agriculture shall be subject to the following criteria...</p>	<p><b>Consistent:</b> The subject dairy had been operating under policies in the Fresno County Zoning Ordinance which permit the continued operation of Dairies which were permitted prior to adoption of said ordinance. With the approval of CUP 3580, the dairy continues to be consistent with the Special Uses listed in Table LU-3. The Bloom Fuel Cell Server is an accessory use to the entire existing dairy and farming operations at the project site. Therefore, it is consistent with this policy.</p>
<p>Policy LU-A.12 In adopting land uses policies, regulations and programs, the County shall seek to protect agricultural activities from encroachment of incompatible land uses.</p>	<p><b>Consistent:</b> While the proposed Bloom Fuel Cell Server is not consistent with the Williamson Act, it is supportive of agricultural operations and therefore, is not an encroachment of an incompatible land use.</p>
<p>Policy LU-A.13 The County shall protect agricultural operations from conflicts with nonagricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations.</p>	<p><b>Consistent:</b> The proposed Bloom Fuel Cell Server is located away from the property lines on the subject dairy and therefore, no additional buffers are required.</p>
<p>Policy LU-A.14 The County shall ensure that the review of discretionary permits includes an assessment of the conversion of productive agricultural land and that mitigation be required where appropriate.</p>	<p><b>Consistent:</b> No productive farmland is proposed to be removed as a result of this application. The new improvements are proposed in areas of the parcel that are currently vacant.</p>
<p>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><b>Consistent:</b> This project was reviewed by the Fresno County Fire Protection District who did not identify any potential fire hazards. Compliance to California Code of Regulations Title 24 – Fire Code will be addressed during the mandatory Site Plan Review.</p>
<p>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><b>Consistent:</b> The applicant is required to adhere to the California Code of Regulations Title 22, Division 4.5 and is required to file a Hazardous Materials Business Plan.</p>

### **Reviewing Agency Comments:**

Fresno County Department of Public Works and Planning, Policy Planning Division: The subject parcel is enrolled in the Williamson Act Program under Contract No. 262. Pursuant to Land Conservation Act (Williamson Act) Program (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 commercial production of electricity is not considered a compatible use on land enrolled in the Program, therefore the area of the Bloom Server 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.

### **Finding 4 Analysis:**

Review of this project by the Policy Planning unit determined that the generation of electricity for commercial sale was not compatible with the Williamson Act Contract. Therefore, the applicant has filed for nonrenewal of the Contract on the area of the parcel where the Bloom Fuel Cell Server is proposed.

The General Plan contains policies which restrict the use of areas which are designated for Agriculture, like the subject parcels, for non-agricultural uses. While the generation of electricity is not considered an agricultural use, the digester approved by CUP 3580 forms part of the complete waste processing system for the agricultural use at the site (the dairy). The Bloom Fuel Cell Server proposed by this application will rely on the digester for product input and therefore is also a part of the complete process at the site. Therefore, due to the reliance of the digester on the agricultural operation, the proposal is determined to be consistent with General Plan Policies LU-A.3, LU-A.12 and LU A.13 (see table above).

This project was reviewed by the Fresno County Fire Department and the Environmental Health Department. It will be required to adhere to the California Code of Regulations Title 22, Division 4.5 and no site-specific concerns were identified. Therefore, the project is consistent with Policies HS-B.1 and HS-F.1.

Based on these factors, the proposed project is 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.

This project is required to adopt all Mitigation Measures and Conditions of Approval of CUP 3580, unless those Measures or Conditions have been completely satisfied. In this case, none of the improvements proposed by CUP 3580 have been constructed and therefore all Mitigation Measures and Conditions of Approval apply to the project. In general, the mitigation measures require the developer to perform preconstruction habitat surveys to determine if additional studies into the presence of special-status species would be warranted. Specific avoidance and minimization measures for species which have potential to occur on the site have been provided and the developer would be required to adhere to these steps prior to construction.

One other measure describes the avoidance and minimization measures necessary in the event that a previously unknown cultural, tribal cultural, or paleontological resource is uncovered during the course of construction.

The Mitigation Measures proposed for this project are required to reduce the impacts identified in Initial Study No. 7318, such that they are considered to be “less than significant”. This project is required to adopt all Mitigation Measures adopted for CUP No. 3580.

The Conditions of Approval for this project include filing a Site Plan Review application, which is necessary to ensure compliance with the Zoning Ordinance and the conditions of this CUP application and restrict the applicant to development of what was approved (i.e. the site plan, detail drawings, and elevations attached as Exhibits 5 and 6). This restriction is necessary to ensure that new impacts are not generated as a result of deviation from the documents reviewed by the Commission.

No other Conditions are proposed. The project notes represent existing regulations to which the applicant/developer is subject and are provided to aid the applicant/developer during construction and/or operation.

***Reviewing Agency/Department Comments:***

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

**Recommended Conditions of Approval:**

*None.*

**PUBLIC COMMENT:**

None.

**CONCLUSION:**

Based on the factors cited in the analysis, staff believes the required Findings for granting the Classified Conditional Use Permit be made. Staff therefore recommends approval of Classified Conditional Use Permit No. 3600, subject to the recommended Conditions of Approval, Mitigation Measures, and Project Notes.

## **PLANNING COMMISSION MOTIONS:**

### **Recommended Motion** (Approval Action)

- Move to determine that the required Findings can be made and move to approve Unclassified Conditional Use Permit Application No. 3662 with recommended Findings and Conditions; 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 Classified Conditional Use Permit No. 3662; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

### **Mitigation Measures, Recommended Conditions of Approval and Project Notes:**

See attached Exhibit 1.

CMM:im

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**Mitigation Monitoring and Reporting Program  
Unclassified Conditional Use Permit Application No. 3662  
(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.	Various	All Mitigation Measures of Initial Study No. 7318 prepared for Conditional Use Permit No. 3580 shall remain in full force and effect.	Applicant	Applicant/PW&P	Prior to and/or during ground-disturbing activities
<b>Conditions of Approval</b>					
1.	Development of the property shall be in accordance with the Site Plans, Floor Plans, Elevations, and Operational Statement approved by the Planning Commission.				
2.	A Site Plan Review application shall be submitted to and approved by the Director of the Public Works and Planning, Development Services and Capital Projects Division in accordance with Section 874 of the Fresno County Zoning Ordinance.				
3.	All previous conditions of Conditional Use Permit No. 3580 shall remain in full force and effect except where superseded by this application, and except where such conditions have been previously satisfied.				

\*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.

CMM

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**Mitigation Monitoring and Reporting Program  
Unclassified Conditional Use Permit Application No. 3580  
(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	Prior to ground-disturbing activities, a qualified biologist shall conduct a habitat assessment for the following species: blunt-nosed leopard lizard, San Joaquin kit fox, Fresno kangaroo rat, tricolored blackbird, burrowing owl, American badger, western spadefoot, and the coast horned lizard. If habitat for such species is determined to be present, additional studies will be necessary to determine the actual presence of special-status species and further mitigation may be required.	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*2.	Biological Resources	In order to reduce impacts to the blunt-nosed leopard lizard (BNLL), if suitable habitat is present, the applicant shall implement the following measures:  a. Prior to ground-disturbing activities, but not more than one year in advance of such work, surveys shall be conducted in the areas of the proposed digester and free-stall barns in accordance with the "Approved Survey Methodology for the Blunt-nosed Leopard Lizard" (CDFG 2004).  b. If the presence of BNLL is detected, the applicant shall consult with CDFW to determine how to implement ground-disturbing activities to avoid take.	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*3.	Biological Resources	In order to reduce impact to the San Joaquin Kit Fox (SJKF), if suitable habitat is present, the applicant shall implement the following measures:  a. Not more than 30 days prior to and not less than 14 days earlier than the start of ground-disturbing activities, a qualified biologist shall assess the presence or absence of SJKF by conducting surveys following US Fish and Wildlife Service's	Applicant	Applicant/PW&P	Prior to ground-disturbing activities

		<p>(USFWS) “Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance” (2011).</p> <p>b. If SJKF is determined to be present at the site, the applicant shall consult with CDFW to determine how to avoid take, or if avoidance is not feasible, shall acquire an Incidental Take Permit prior to ground-disturbing activities.</p>			
*4.	Biological Resources	<p>In order to reduce impacts to the Fresno Kangaroo Rat (FKR), if suitable habitat is present, the applicant shall implement the following measures:</p> <p>a. Focused protocol-level trapping surveys shall be conducted by a qualified biologist in accordance with USFWS’s “Survey Protocol for Determining Presence of Fresno Kangaroo Rats” (2013).</p> <p>b. If FKR is detected, the applicant shall consult with CDFW to discuss avoidance measures.</p>	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*5.	Biological Resources	<p>In order to reduce impacts to the Tricolored Blackbird (TRBL), the following measures shall be implemented:</p> <p>a. If construction occurs outside normal breeding season (February 1 through September 14), no additional mitigation is necessary to avoid impacts.</p> <p>b. If construction occurs during normal breeding season, a qualified wildlife biologist shall conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation.</p> <p>c. If pre-construction surveys indicate the presence of an active TRBL nesting colony, a minimum 300-foot no-disturbance buffer shall be established, in accordance with CDFW’s “Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields” (2015). Prior to removal of the buffer, a qualified biologist must determine that nesting has ceased or the birds have fledged. The buffers may be removed once the nesting season has ended.</p>	Applicant	Applicant/PW&P	Prior to ground-disturbing activities

		d. If pre-construction surveys indicate the presence of TRBL, the applicant shall consult with CDFW to avoid take, or shall obtain an Incidental Take Permit.			
*6.	Biological Resources	<p>In order to reduce impacts to the Burrowing Owl (BUOW), if suitable habitat is present, the following measures shall be implemented:</p> <p>a. Surveys shall be conducted by a qualified biologist to determine the presence or absence of BUOW at the project site and within a 500-foot buffer of the project site. These surveys shall follow the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012).</p> <p>b. If BUOW is determined to be present at the project site, no-disturbance buffers as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012) shall be implemented prior to and during all ground-disturbing activities. The buffer zones recommended by the "Staff Report" shall be implemented unless a qualified biologist, approved by CDFW, verifies through non-invasive methods that either: the birds have not begun egg-laying and incubation; or that the juveniles from the occupied burrows are foraging independently and are capable of independent survival.</p> <p>If it is not feasible to implement buffers as outlined by the "Staff Report", a qualified biologist may perform burrow exclusion to remove BUOW from the project site. Burrow exclusion shall occur only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods. Artificial burrows shall be created at a 1:1 ratio for each exclusion.</p>	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*7.	Biological Resources	In order to reduce impacts to the American Badger, the western spadefoot, and the coast horned lizard, if	Applicant	Applicant/PW&P	Prior to ground-disturbing activities

		<p>suitable habitat is present, the following measures shall be implemented:</p> <p>a. Surveys shall be conducted by a qualified biologist to determine if species are present.</p> <p>b. 50-foot no-disturbance buffers shall be implemented around any identified burrows and dens.</p>			
*8.	Cultural Resources	<p>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 should 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. The applicant must notify the Table Mountain Rancheria Tribal Government by email at rpennell@tmr.org and the Picayune Rancheria of Chukchansi Indians by email at THarter@chukchansi-nasn.gov of any archeological finds.</p>	Applicant	Applicant/PW&P	During ground-disturbing activities.

\*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.

Conditions of Approval	
1.	Development of the property shall be in accordance with the Site Plan, Floor Plans, Elevations and Operational Statement approved by the Commission.
2.	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. 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.

## Notes

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

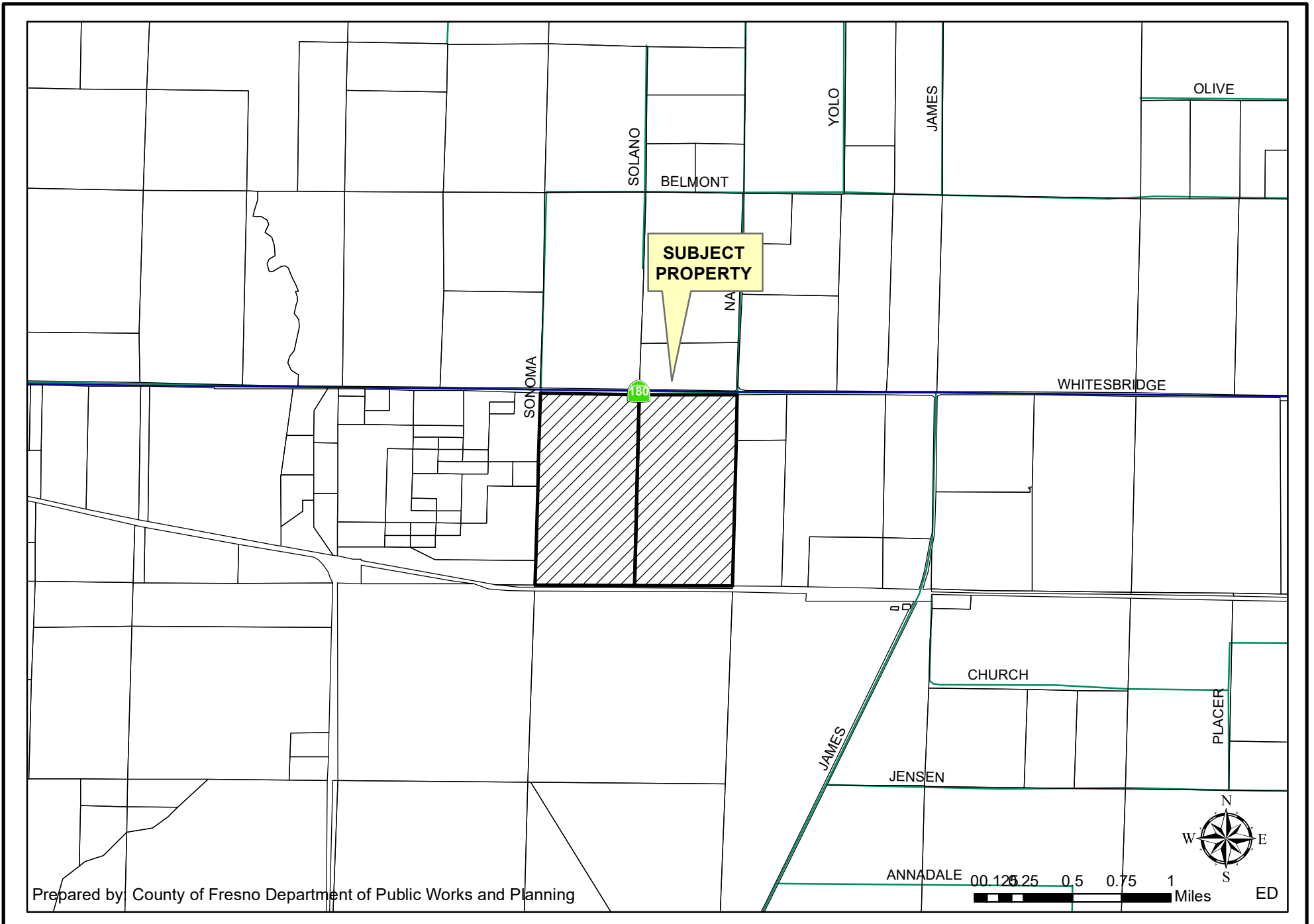
1.	The following requirements were provided by the Central Valley Regional Water Quality Control Board: Provision E.3 of the Digester Order requires the submittal of a Report of Waste Discharge. Upon completion of construction of the proposed anaerobic digester, several of the Provisions in Section E of the Digester Order requiring submission of technical reports will be past-due and will need to be submitted as soon as practicable.
2.	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). Please contact Solid Waste staff at (559) 600-3271 for more information.
3.	Prior to issuance of building permits, the applicant will be required to submit complete construction plans and specifications for the new freestall barns for review and approval. Plans shall be submitted to California Department of Food and Agriculture, and County of Fresno, Environmental Health Division, Please contact John Smith at (559) 600-3357 for more information.
4.	Within 30 days of the occurrence of any of the following events the applicant/operators shall update their online Hazardous Materials Business Plan and site map ( <a href="http://cers.calepa.ca.gov/">http://cers.calepa.ca.gov/</a> or <a href="https://www.fresnocupa.com/">https://www.fresnocupa.com/</a> ) 1. There is a 100% or more increase in the quantities of a previously disclosed material; 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. Contact the Certified Unified Program Agency at (559) 600-3271 for more information.
5.	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.
6.	Construction plans, permits and inspections will be required for all proposed construction.  Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of Fresno County Ordinance. Note that grading import is not allowed for the development of the proposed work within the flood zone.
7.	Any additional runoff generated by the proposed development of a site cannot be drained across property lines, or into the Caltrans right-of-way, and must be retained on-site, per County Standards.
8.	Any existing or proposed parking area should comply with the Fresno County Off-street Parking Design Standards.

<b>Notes</b>	
9.	A grading permit or voucher is required for any grading proposed with this application
10.	Any proposed driveway should be set back a minimum of 10 feet from the property line. For unpaved or gravel surface access roads, the first 100 feet off of the edge of the road right-of-way must be graded and asphalt concrete paved or treated with dust palliative and any existing or proposed entrance gate should be set back a minimum of 20 feet from the road right-of-way line or the length of the longest truck entering the site, and shall not swing outward.
11.	Any encroachment or access over the Southern Pacific Railroad right-of-way would require approval from the owner.
12.	Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of Fresno County Ordinance. Note that grading import is not allowed for the development of the proposed work within the flood zone. Any dirt material used for grading must be obtained within the designated flood area as to not cause an impact to the determined area of flooding.

CMM

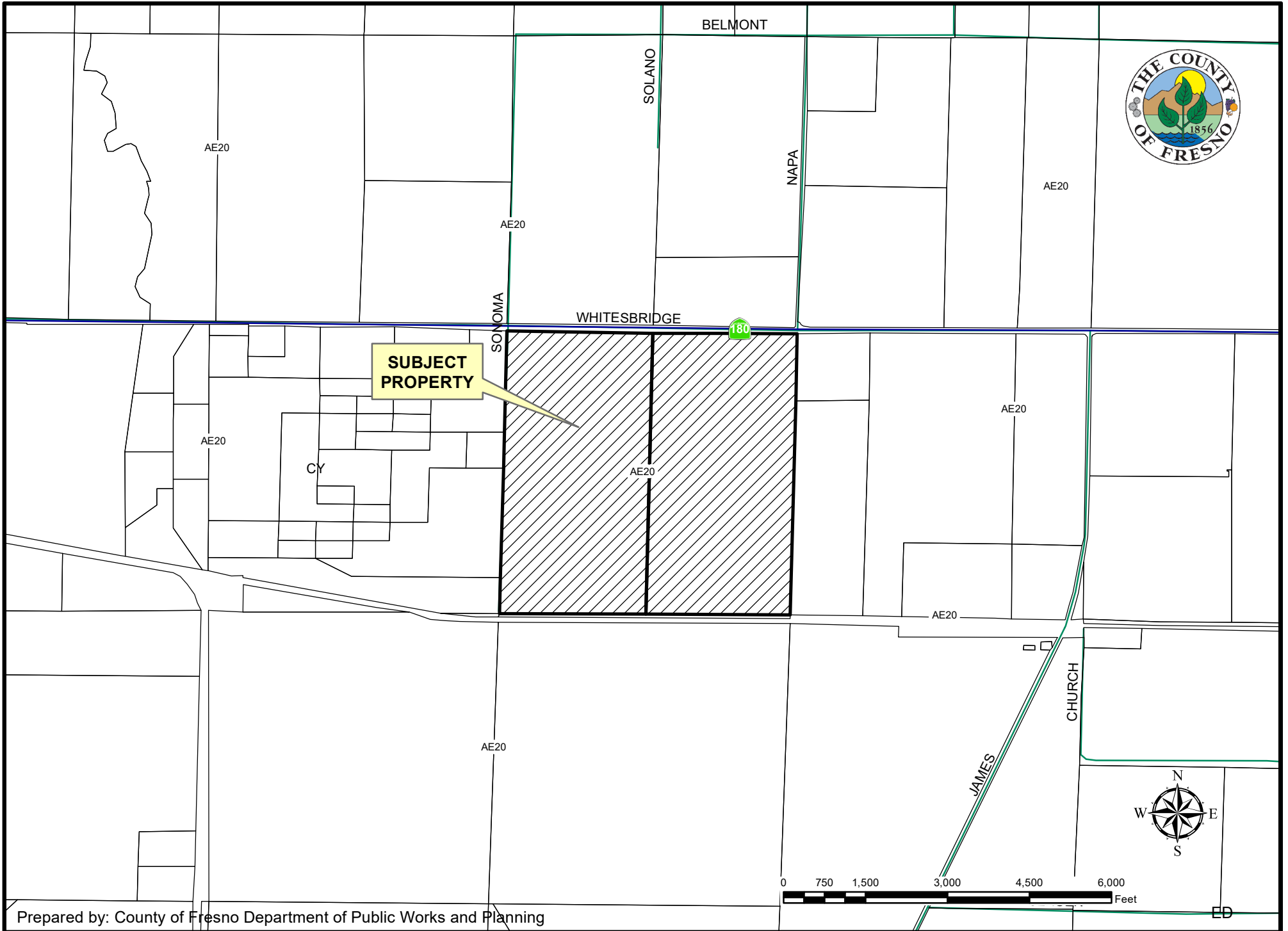
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# LOCATION MAP



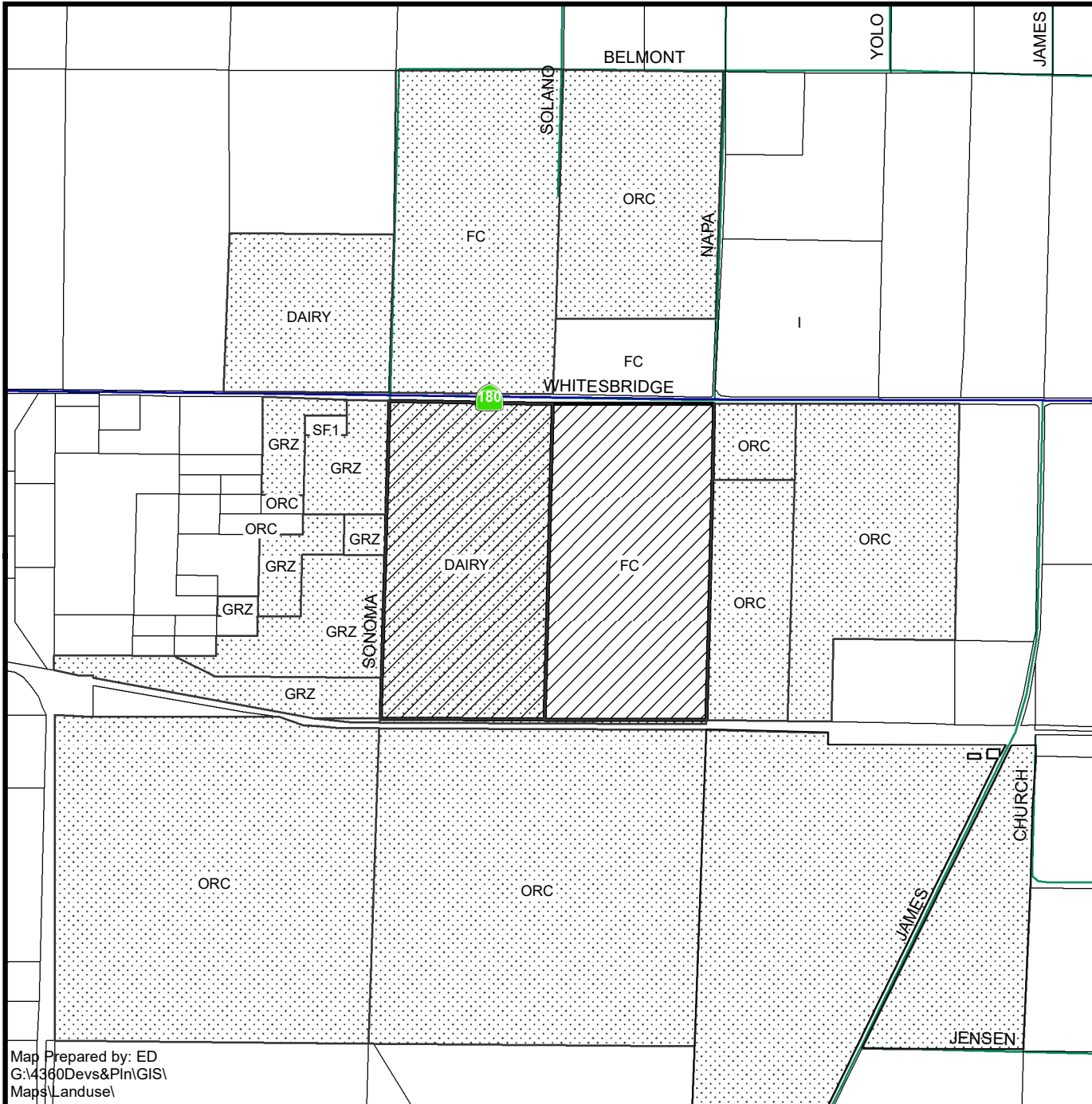
Prepared by County of Fresno Department of Public Works and Planning

# EXISTING ZONING MAP







# EXISTING LAND USE MAP

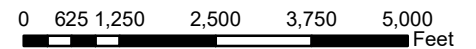


### LEGEND:

-  Subject Property
-  Ag Contract Land

### Legend

- DAIRY
- FC - FIELD CROP
- GRZ - GRAZING
- I - INDUSTRIAL
- ORC - ORCHARD
- SF#- SINGLE FAMILY RESIDENC

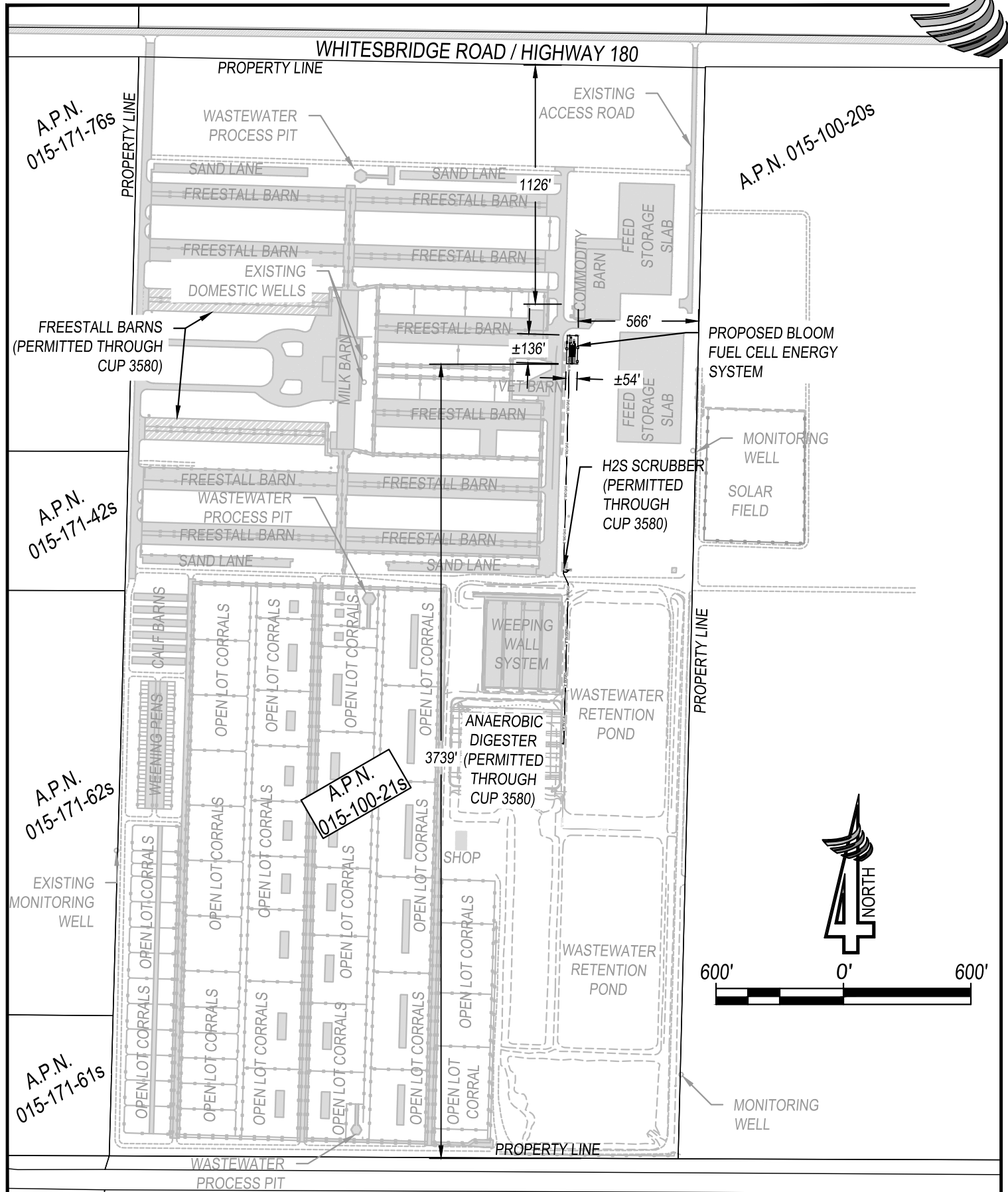


Department of Public Works and Planning  
Development Services Division

Map Prepared by: ED  
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Maps\Landuse\



# WHITESBRIDGE ROAD / HIGHWAY 180



A.P.N. 015-171-76s

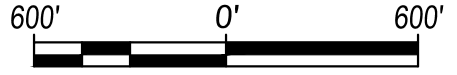
A.P.N. 015-100-20s

A.P.N. 015-171-42s

A.P.N. 015-171-62s

A.P.N. 015-100-21s

A.P.N. 015-171-61s



324 S. SANTA FE, STE. A  
 VISALIA, CA 93292  
 (559) 802-3052

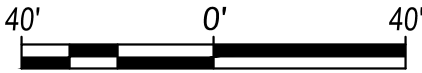
## PROPOSED PLOT PLAN

### BAR 20 DAIRY

### FRESNO COUNTY, CA

JOB NO. 17083
CUP PLOT PLAN
3/23/2020
SCALE: 1" = 600'

# EXHIBIT 6



EXISTING SWITCHBOARD  
 PROPOSED PHASE 1 FUEL CELL ELECTRICAL INTERCONNECTION #1 AT EXISTING SWITCHBOARD

EXISTING TRANSFORMER  
 COMMODITY BARN  
 PROPOSED PHASE 1 FUEL CELL ELECTRICAL INTERCONNECTION #2 AT EXISTING TRANSFORMER

EXISTING BOLLARD (TYP.)

A.P.N.  
 015-100-21s



PROPOSED PHASE 1 10' WIDE ROLLING GATE (TYP. 4)

PROPOSED PHASE 1 FIXED BOLLARDS (TYP.)

PROPOSED PHASE 2 ELECTRICAL DISCONNECT

PROPOSED PHASE 1 TRANSFORMER  
 PROPOSED PHASE 1 TELEMETRY CABINET

PROPOSED PHASE 1 POWER DISTRIBUTION SECTION (TYP. 2)

PROPOSED PHASE 2 POWER DISTRIBUTION SECTION

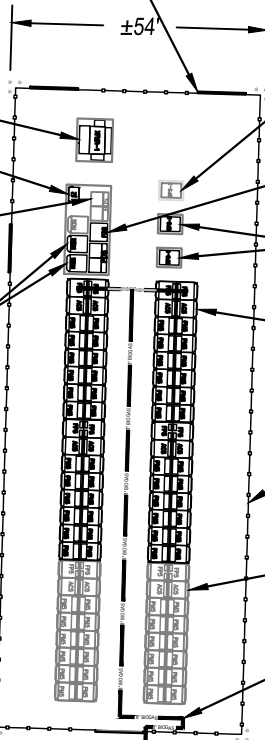
PROPOSED PHASE 1 ELECTRICAL DISCONNECT (TYP. 2)

PROPOSED PHASE 1 WATER DISTRIBUTION MODULE (TYP. 2)

PROPOSED PHASE 1 BLOOM ENERGY FUEL CELL (TYP. 8)



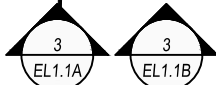
±136'



PROPOSED PHASE 1 8' TALL CHAIN LINK FENCE WITH PRIVACY SLATS (TYP.)

PROPOSED PHASE 2 BLOOM ENERGY FUEL CELL (TYP. 4)

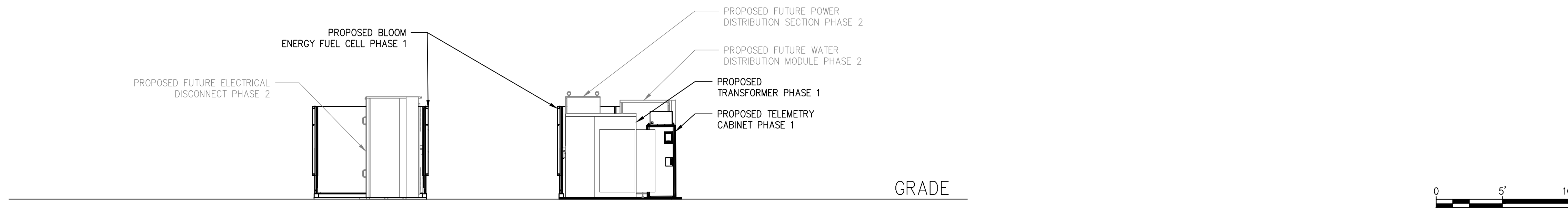
PROPOSED BIOGAS PIPELINE FROM H2S SCRUBBER



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 (559) 802-3052

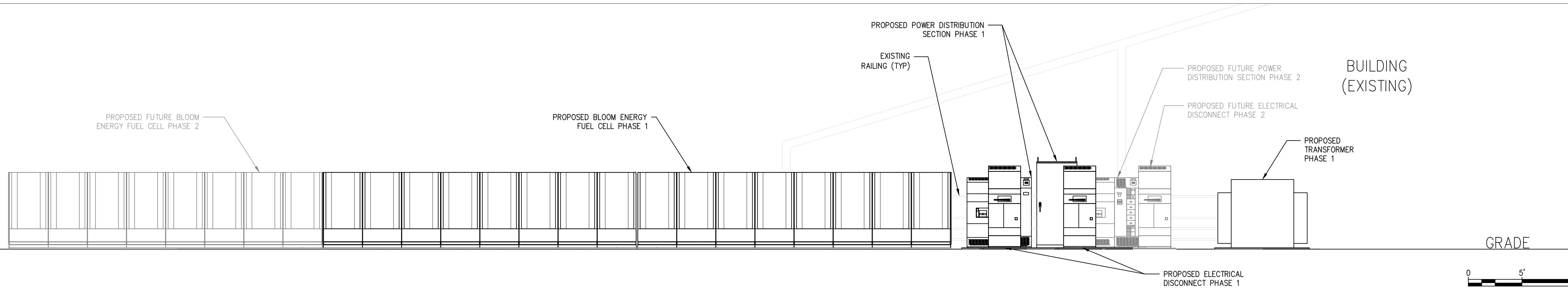
**PROPOSED SITE PLAN**  
 BAR 20 DAIRY  
 FRESNO COUNTY, CA

JOB NO. 17083
CUP SITE PLAN
3/23/2020
SCALE: 1" = 40'



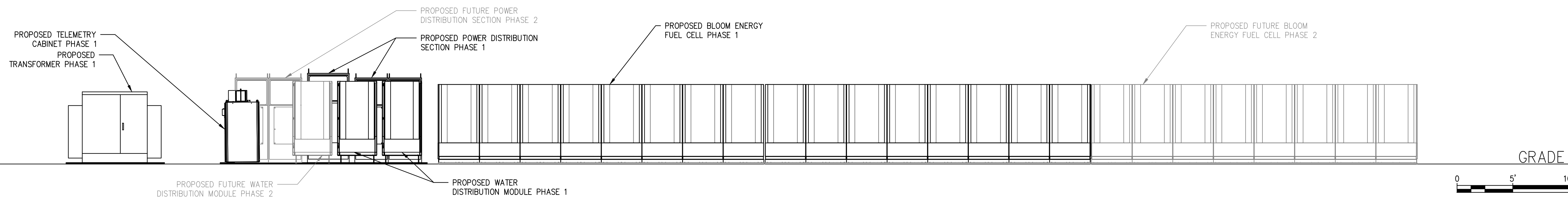
**SOUTH ELEVATION**  
 SCALE: 1"=5' (FENCES AND BOLLARDS HIDDEN FOR CLARITY)

1  
 EL1.1A



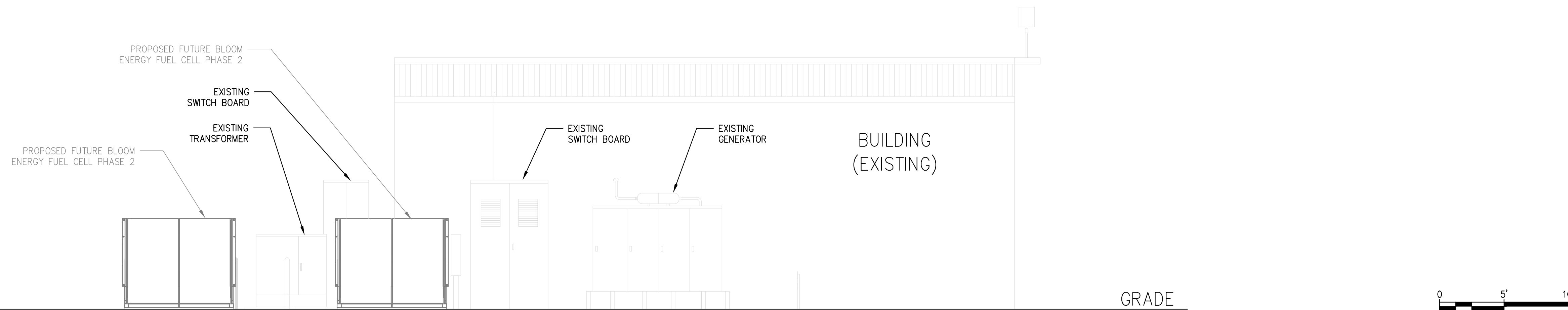
**WEST ELEVATION**  
 SCALE: 1"=5' (FENCES AND BOLLARDS HIDDEN FOR CLARITY)

2  
 EL1.1A



**EAST ELEVATION**  
 SCALE: 1"=5' (FENCES AND BOLLARDS HIDDEN FOR CLARITY)

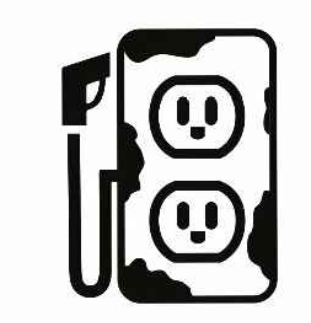
3  
 EL1.1A



**NORTH ELEVATION**  
 SCALE: 1"=5' (FENCES AND BOLLARDS HIDDEN FOR CLARITY)

4  
 EL1.1A

CUSTOMER SITE  
 CALIFORNIA BIOENERGY LLC  
 24387 WEST  
 WHITESBRIDGE AVE  
 KERMAN, CA 93630



**CALIFORNIA  
 BIOENERGY**

REVISION HISTORY		
REV	REVISION ISSUE	DATE
-	ISSUED FOR PLANNING REVIEW	03/02/2020

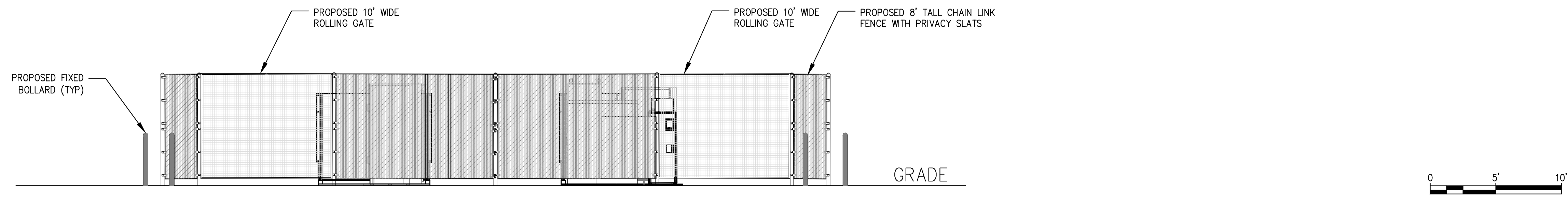
DESIGNED BY BRANDON SNOW	REVIEWED BY GLEN BENSON
DRAWN BY THARA SRINIVASACHARI	APPROVED BY BRENT GHELDRIJN

SHEET TITLE  
 ELEVATION VIEWS  
 (FENCES AND BOLLARDS HIDDEN FOR CLARITY)

DRAWING NUMBER  
 EL1.1A

BLOOM DOCUMENT  
 DOC-1012713

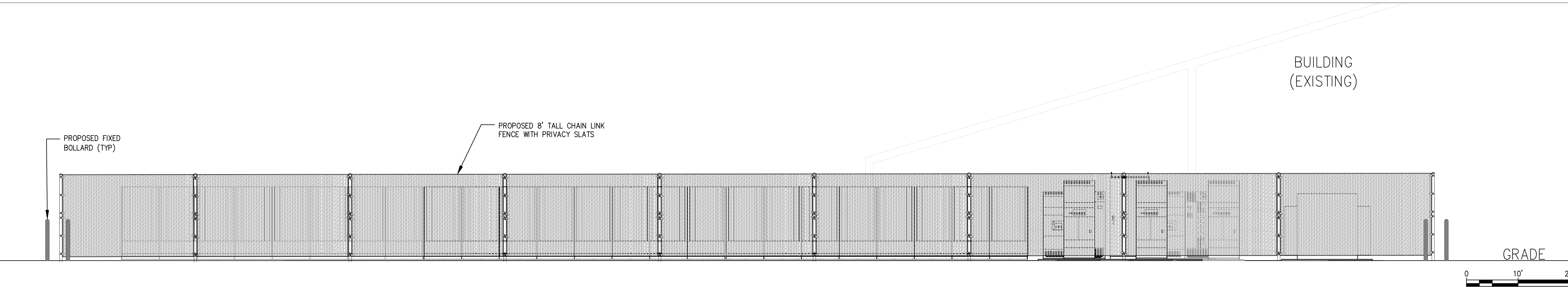
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 SITE ID: CAB000.0 SHEET 02 OF 04



SOUTH ELEVATION

1  
EL1.1B

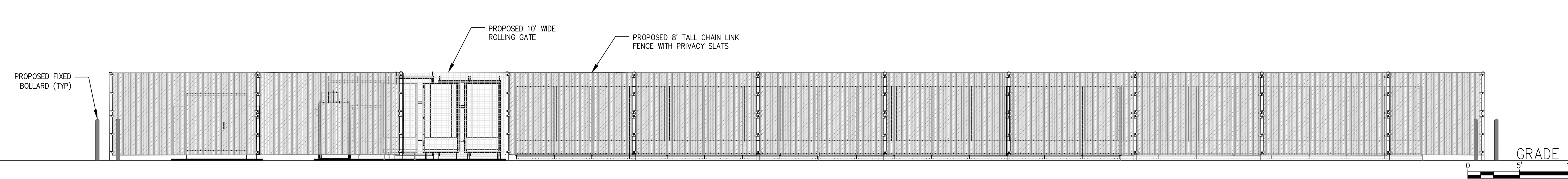
SCALE: 1"=5'



WEST ELEVATION

2  
EL1.1B

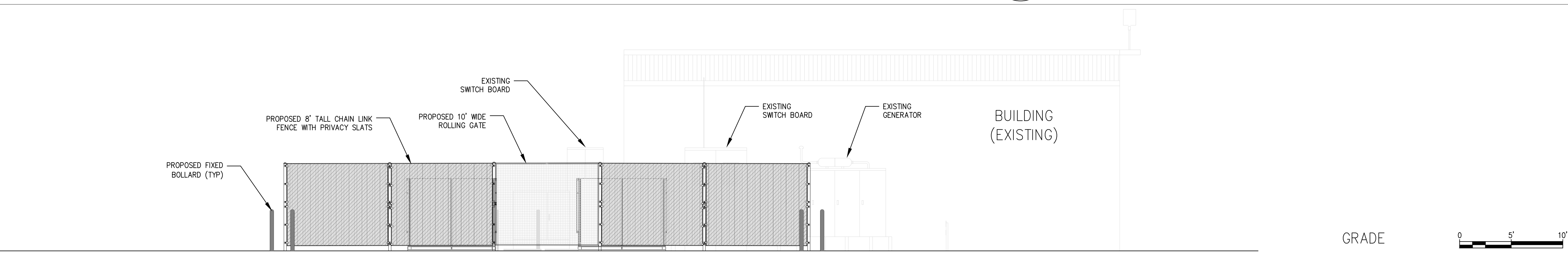
SCALE: 1"=5'



EAST ELEVATION

3  
EL1.1B

SCALE: 1"=5'

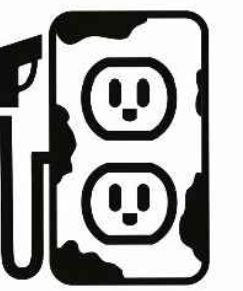


NORTH ELEVATION

4  
EL1.1B

SCALE: 1"=5'

CUSTOMER SITE  
CALIFORNIA BIOENERGY LLC  
24387 WEST  
WHITESBRIDGE AVE  
KERMAN, CA 93630



CALIFORNIA  
BIOENERGY

REVISION HISTORY		
REV	REVISION ISSUE	DATE
-	ISSUED FOR PLANNING REVIEW	03/02/2020

DESIGNED BY BRANDON SNOW	REVIEWED BY GLEN BENSON
DRAWN BY THARA SRINIVASACHARI	APPROVED BY BRENT GHELDRIEN

SHEET TITLE ELEVATION VIEWS	
DRAWING NUMBER EL1.1B	
BLOOM DOCUMENT DOC-1012713	
THIS DRAWING IS 24" X 36" AT FULL SIZE	
SITE ID: CAB000.0	SHEET 03 OF 04



**BAR 20 DAIRY – CUP 3662  
OPERATIONAL STATEMENT:**

**1. Nature of operation—what do you propose to do? Describe in detail.**

Bar 20 Dairy (Facility) is an existing dairy facility located in Kerman, California.

The owners of the Facility would like to propose the construction, installation, and operation of a Bloom Fuel Cell Energy Server (Bloom Server). The Bloom Server will intake biogas generated from the anaerobic digester to be constructed (permitted through CUP 3580), process the biogas for generation of electricity, and interconnection into the existing utility service line for sale of the generated electricity.

The proposed project is to be phased into two phases. Phase 1 includes a 2-MW Bloom Server, sized for current operations. When the Facility implements the consolidation of herd proposed in CUP 3580, Phase 2 would be initiated, which includes the modifications necessary from a 2-MW Bloom Server to a 3-MW Bloom Server. Please see attached site plan for details.

**2. Operational time limits**

The operation of the Facility remains consistent throughout the year. The Facility operates 24 hours per day, 7 days per week. The milk cows are milked twice per day, and this routine governs the milkers' schedule. There are two shifts for milkers, per 24 hours, each approximately 10 hours. Feeders, herdsman, maintenance, and other employees work between the hours of 4:00AM and 6:00PM. The proposed project will not affect the operational time limits. To remain the same as proposed through approved CUP 3580.

**3. Number of customers or visitors:**

The number of visitors per day range depending on the day of week and the time of year. On average, about 15 visitors (which include family members of employees, consultants to the dairy, or salesman) visit per weekday, between the hours of 6:00AM and 5:00PM. The proposed project will not affect the number of customers or visitors on-site. To remain the same as proposed through approved CUP 3580.

**4. Number of employees:**

The current total number of employees is approximately 80 people. The proposed project will not impose a need for additional employees. Services for the digester and mechanical equipment, as well as the Bloom Server, shall be provided part-time by the digester operations team. To remain the same as proposed through approved CUP 3580.

**5. Service and delivery vehicles:**

Service and Delivery trucks visit regularly at the dairy to provide feed, pick up the milk, haul animals, provide mechanical services, provide veterinary and breeding services, and fuel deliveries. With the proposed modifications, a minor amount of limited additional maintenance and service vehicles will visit the site, but only a few times per month. It is expected that an average of 8 trucks make visits to the site per day.

**6. Access to the site:**

The Facility is located south of Whitesbridge Road (or Highway 180) between N. San Mateo Avenue and N. Napa Avenue. There are two (2) paved access points to the Facility from Whitesbridge Road. The easternmost access point will provide access to APN 015-100-20S along the east end of the dairy facility.

**7. Number of parking spaces for employees, customers, and service/delivery vehicles.**

Majority of parking occurs adjacent to the milk barn as well as adjacent to the shop. Adjacent to the milk barn is approximately one hundred (100) marked and unmarked

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Visalia, California 93292  
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F: (559) 802.3215

**Porterville Office**

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Porterville, California 93257  
P: (559) 781.0102  
F: (559) 781.6840

[www.4-creeks.com](http://www.4-creeks.com)



parking spaces, including one (1) marked for ADA Accessibility under the western shade of the milk barn structure. The proposed project will not impose the need for additional parking spaces. To remain the same as proposed through approved CUP 3580.

**8. Are there any goods to be sold on-site? If so, are these goods grown or produced on-site or at some other location?**

Milk is produced on-site, and picked up by Producers Dairy Foods several times each day. With the addition of the proposed digester project, electricity will be produced by the generators from the biogas and collected in the digester, which will be connected to the local utility electrical grid. To remain the same as proposed through approved CUP 3580.

**9. What equipment is used?**

Tractors and feed trucks are used on-site for feeding the animals. In the milk barn, vacuum pumps, plate coolers, and other milk handling equipment are used in compliance with the California Code of Regulations. The proposed digester project will include additional equipment including the Bloom Server to process the biogas collected in the digester for electrical generation. All other equipment to remain the same as proposed through approved CUP 3580.

**10. What supplies or materials are used and how are they stored?**

Various supplies and materials are stored and used within the milk barn for milk tank sanitation. The proposed project will use (a) urea for NOx reduction system and (b) iron oxide media as part of H2S removal system. Used and new engine oil will also be stored on-site. To remain the same as proposed through approved CUP 3580.

**11. Does the use cause an unsightly appearance?**

There is an existing buffer of 500 feet between the paved street and the extents of the Facility production area, which reduces any aesthetic impacts of the Facility. The proposed project will not affect the impacts on dust, odor, or any aesthetics near the Facility. Proposed project will not cause any additional impact than proposed through approved CUP 3580.

**12. List any solid or liquid wastes to be produced.**

Solid manure is produced on-site, stored, and applied to contiguous farmland at agronomic rates. Liquid wastewater is also produced, stored, and applied similarly. Some solid manure is also delivered off-site, which is monitored by the Facility as required by the Regional Water Quality Control Board.

**13. Estimated volume of water to be used (gallons per day).**

To remain the same as proposed through approved CUP 3580.

**14. Describe any proposed advertising including size, appearance, and placement.**

Not applicable to this operation.

**15. Will existing buildings be used or will new buildings be constructed?**

All existing buildings of the Facility will remain intact. A new building for the mechanical generators will be used for the operation of the Facility.

**16. Explain which buildings or what portion of buildings will be used in the operation.**

Please see the attached site plan for building location specifics.

**17. Will any outdoor lighting or an outdoor sound amplification system be used?**

All outdoor lighting is existing. The proposed project does not include the addition of outdoor lighting, nor outdoor sound amplification systems.

**18. Landscaping or fencing proposed?**

No landscaping or fencing is proposed as part of this application.

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Visalia, California 93292  
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F: (559) 802.3215

**Porterville Office**

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Porterville, California 93257  
P: (559) 781. 0102  
F: (559) 781.6840



**19. Any other information that will provide a clear understanding of the project or operation.**

The proposed modification to the Facility will not modify the Facility footprint as currently operated. The purpose of the project is to generate electricity using the biogas created by the animals to reduce methane emissions. The project has a very minor impact to existing operations of the dairy Facility once constructed and operational.

**20. Identify all Owners, Officers and/or Board Members for each application submitted.**

The owner of the dairy is Bar 20 Dairy, LLC, which is overseen by Stephen Shehadey.

**Visalia Office**

324 S. Santa Fe St. Ste. A  
Visalia, California 93292  
P: (559) 802.3052  
F: (559) 802.3215

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Porterville, California 93257  
P: (559) 781. 0102  
F: (559) 781.6840

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# County of Fresno

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

## EVALUATION OF ENVIRONMENTAL IMPACTS

- APPLICANT: Stephen Shehadey
- APPLICATION NOS.: Initial Study Application No. 7318 and Unclassified  
Conditional Use Permit Application No. 3580
- DESCRIPTION: Allow an **approximately 30.4 million-gallon** anaerobic digester for the collection of methane to be constructed on a 6.93-acre portion of an existing dairy facility; allow an increase to the herd size to a maximum of 10,839 milking cows and 20,616 non-milking animals due to a transfer of animals from the Bar 20 Dairy No. 3; and construct two new free-stall barns to house said animals on a 324.66-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.
- LOCATION: The subject parcel is located on the south side of Whitesbridge Avenue, between San Mateo Avenue and James Road, addressed as 24387 W. Whitesbridge Avenue, Kerman (Sup. Dist.1) (APN 015-100-21S)

### I. AESTHETICS

- A. Would the project have a substantial adverse effect on a scenic vista; or
- B. Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway; or
- C. Would the project substantially degrade the existing visual character or quality of the site and its surroundings; or
- D. Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

FINDING: NO IMPACT:

The proposed digester will be located more than 3,000 feet south of the nearest roadway, Highway 180. The main covered area of the digester will be only slightly above-grade and is not likely to impact the view. The above-ground portions of the digester, such as the mechanical pad and associated equipment will meet all development standards without the need for a variance. There are no new sources of

lighting proposed as part of this application; however, existing exterior lights are present at the site.

## II. AGRICULTURAL AND FORESTRY RESOURCES

- A. Would the project convert prime or unique farmlands or farmland of state-wide importance to non-agricultural use?

FINDING: NO IMPACT:

This parcel has been designated by the Fresno County 2014 Important Farmlands map as Confined Animal Agriculture (CI). In Fresno County, this is considered Farmland of Local Importance. Therefore, there will be no impact to prime farmlands, unique farmlands, or farmland of state-wide importance.

- B. Would the project conflict with existing agricultural zoning or Williamson Act Contracts?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The entire parcel was restricted by Williamson Act Contract No. 262; however, when a digester is used to produce and sell energy (as opposed to producing energy for use at the site), then the use is not considered to be compatible with the Williamson Act. On September 19, 2017, a notice of partial non-renewal was recorded to remove the 6.93-acre portion of the parcel from the existing Williamson Act Contract. Approximately 318 acres of this parcel remain under contract. Due to the extensive acreage remaining under contract and the nature of the digester to support the agricultural use, impacts to the Contract will be less than significant.

This parcel is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). The proposed herd increase and anaerobic digester are allowed under this zoning through the approval of an Unclassified Conditional Use Permit. There are no conflicts with the existing zoning.

- C. Would the project conflict with existing zoning for or cause rezoning of forest land, timberland, or timberland zoned Timberland Production; or
- D. Would the project result in the loss of forest land or conversion of forest land to non-forest use; or
- E. Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural uses or conversion of forest land to non-forest use?

FINDING: NO IMPACT:

The subject parcel is not located near any forestland or other land zoned for timberland production and therefore will have no impacts upon such lands. The nature of this project to install a digester and increase the herd size at an existing dairy will not result in the

conversion of adjacent agricultural lands. The two portions of this parcel that were removed from the Williamson Act Contract are located more than 1,000 feet from the closest property line. Therefore, Williamson Act Contract No. 262 continues to provide a buffer of agricultural uses to the surrounding properties. Further, while the digester is not considered to be a use compatible with Williamson Act Contract, it benefits agricultural activities in the area and therefore will not result in the conversion of other land.

### III. AIR QUALITY

- A. Would the project conflict with or obstruct implementation of the applicable Air Quality Plan; or
- B. Would the project violate any air quality standard or contribute to an existing or projected air quality violation; or
- C. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under a Federal or State ambient air quality standard?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project site is in an area of nonattainment for Ozone, PM<sub>2.5</sub> and PM<sub>10</sub> (particulate matter <2.5 mm and <10mm); however, the proposed increase in herd size will be due to a transfer of animals from another permitted dairy located on the opposite corner of Highway 180 and S. Sonoma Avenue from the subject parcel. The San Joaquin Valley Air Pollution Control District currently regulates these two dairies as a single source; however, they operate under separate authorizations through the County of Fresno because they were developed at different times. The transfer will move these animals from their current open-lot corrals to new free-stall barns, which will result in an anticipated decrease of PM<sub>10</sub> emissions by approximately 6.69 lbs/hd-yr.

It is further anticipated that this transfer of these animals will reduce emissions by reducing employee and delivery trips, since employees will not need to travel to two sites and the milk may be transferred alongside existing deliveries.

The following activities are anticipated during construction: minimal grading of the existing pond (the proposed digester), minimal grading at the location of the free-stall barns, construction of the mechanical pad for digester engines, and lining and covering of the digester pond. Combined estimated emissions in tons per year from construction are: 4.32 NO<sub>x</sub> (nitrogen oxides), 0.21 ROG (reactive organic gas), 0.22 PM<sub>10</sub>, 5.40 ozone, and 0.01 SO<sub>x</sub> (Sulfur dioxide). The demolition of the north facility, where the transferred animals are sourced, is a reasonable expansion of impacts from this project. Said demolition is anticipated to release (in tons/year) 3.55 NO<sub>x</sub>, 0.17 ROG, 0.19 PM<sub>10</sub>, 4.52 CO, and 0.01 SO<sub>x</sub>. The Air District's review of these estimations confirmed that they are anticipated to remain below significance thresholds for increases to criteria pollutants.

- D. Would the project expose sensitive receptors to substantial pollutant concentrations; or
- E. Would the project create objectionable odors affecting a substantial number of people?

FINDING: NO IMPACT:

Sensitive receptors include hospitals, schools, elderly housing, and some residential developments. The area in the vicinity of the project site does not contain any such locations; the surrounding area is agricultural in nature. The nearest residence is approximately 2,400 feet from the nearest property line and not likely to be impacted by the estimated level of emissions.

Following construction, all manure and wastewater on the site will be treated by an anaerobic digester, which will reduce the amount of methane in the air, thereby reducing objectionable odors from manure.

#### IV. BIOLOGICAL RESOURCES

- A. Would the project have a substantial adverse effect, either directly or through habitat modifications, on any candidate, sensitive, or special-status species?

FINDING: LESS THEN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The existing conditions at the project site consist of an established dairy with open lot corrals, weaning pens, and calf barns in the southwestern portion of the parcel; freestall barns, a vet barn, and a milk barn in the northwestern two-thirds; two feed storage slabs, hay storage, and a commodity barn in the northeastern portion; and two wastewater retention ponds in the southeastern portion. The area around these structures has been cleared of debris and landscaping. To the west is undeveloped land comprised of annual grassland, which could provide habitat for numerous special-status species, according to the California Department of Fish and Wildlife (CDFW). Therefore, the potential exists for such species to be present at the project site. In order to reduce impacts to these species, the applicant shall first perform site-specific, habitat assessment surveys, then shall follow appropriate mitigation as identified below:

\* **Mitigation Measures**

1. *Prior to ground-disturbing activities, a qualified biologist shall conduct a habitat assessment for the following species: blunt-nosed leopard lizard, San Joaquin kit fox, Fresno kangaroo rat, tricolored blackbird, burrowing owl, American badger, western spadefoot, and the coast horned lizard. If habitat for such species is determined to be present, additional studies will be necessary to determine the actual presence of special-status species and further mitigation may be required.*
2. *In order to reduce impacts to the blunt-nosed leopard lizard (BNLL), if suitable habitat is present, the applicant shall implement the following measures:*
  - a. *Prior to ground-disturbing activities, but not more than one year in advance of such work, surveys shall be conducted in the areas of the proposed digester*

- and free-stall barns in accordance with the “Approved Survey Methodology for the Blunt-nosed Leopard Lizard” (CDFG 2004).*
- b. If the presence of BNLL is detected, the applicant shall consult with CDFW to determine how to implement ground-disturbing activities to avoid take.*
  - 3. In order to reduce impact to the San Joaquin Kit Fox (SJKF), if suitable habitat is present, the applicant shall implement the following measures:*
    - a. Not more than 30 days prior to and not less than 14 days earlier than the start of ground-disturbing activities, a qualified biologist shall assess the presence or absence of SJKF by conducting surveys following US Fish and Wildlife Service’s (USFWS) “Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance” (2011).*
    - b. If SJKF is determined to be present at the site, the applicant shall consult with CDFW to determine how to avoid take, or if avoidance is not feasible, shall acquire an Incidental Take Permit prior to ground-disturbing activities.*
  - 4. In order to reduce impacts to the Fresno Kangaroo Rat (FKR), if suitable habitat is present, the applicant shall implement the following measures:*
    - a. Focused protocol-level trapping surveys shall be conducted by a qualified biologist in accordance with USFWS’s “Survey Protocol for Determining Presence of Fresno Kangaroo Rats” (2013).*
    - b. If FKR is detected, the applicant shall consult with CDFW to discuss avoidance measures.*
  - 5. In order to reduce impacts to the Tricolored Blackbird (TRBL), the following measures shall be implemented:*
    - a. If construction occurs outside normal breeding season (February 1 through September 14), no additional mitigation is necessary to avoid impacts.*
    - b. If construction occurs during normal breeding season, a qualified wildlife biologist shall conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation.*
    - c. If pre-construction surveys indicate the presence of an active TRBL nesting colony, a minimum 300-foot no-disturbance buffer shall be established, in accordance with CDFW’s “Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields” (2015). Prior to removal of the buffer, a qualified biologist must determine that nesting has ceased or the birds have fledged. The buffers may be removed once the nesting season has ended.*
    - d. If pre-construction surveys indicate the presence of TRBL, the applicant shall consult with CDFW to avoid take, or shall obtain an Incidental Take Permit.*
  - 6. In order to reduce impacts to the Burrowing Owl (BUOW), if suitable habitat is present, the following measures shall be implemented:*
    - a. Surveys shall be conducted by a qualified biologist to determine the presence or absence of BUOW at the project site and within a 500-foot buffer of the project site. These surveys shall follow the California Burrowing Owl*

*Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012).*

- b. If BUOW is determined to be present at the project site, no-disturbance buffers as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012) shall be implemented prior to and during all ground-disturbing activities. The buffer zones recommended by the "Staff Report" shall be implemented unless a qualified biologist, approved by CDFW, verifies through non-invasive methods that either: the birds have not begun egg-laying and incubation; or that the juveniles from the occupied burrows are foraging independently and are capable of independent survival.*
  - c. If it is not feasible to implement buffers as outlined by the "Staff Report", a qualified biologist may perform burrow exclusion to remove BUOW from the project site. Burrow exclusion shall occur only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods. Artificial burrows shall be created at a 1:1 ratio for each exclusion.*
7. *In order to reduce impacts to the American Badger, the western spadefoot, and the coast horned lizard, if suitable habitat is present, the following measures shall be implemented:*
- a. Surveys shall be conducted by a qualified biologist to determine if species are present.*
  - b. 50-foot no-disturbance buffers shall be implemented around any identified burrows and dens.*
- B. Would the project 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 (CDFW) or U.S. Fish and Wildlife Service (USFWS); or
- C. Would the project have a substantial adverse effect on federally-protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption or other means?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The U.S. Fish and Wildlife Service's Wetlands Mapper shows several wetlands which occur on the project site; however, no seasonal flooding occurs on site due to the existing grading and drainage plan. All open lot corrals are maintained with minimum slopes for property drainage to the wastewater retention ponds, or to local low spots where water is manually pumped to the wastewater ponds. This project is exempt from a Section 404 review under Section 404(f)(1) of the Clean Water Act (established farming, ranching, or silviculture activities).

- D. Would the project 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; or

- E. Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- F. Would the project 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:

There are no migratory corridors that run through or adjacent to the project site. The anaerobic digester is proposed in an undeveloped area of the parcel within the existing dairy and which is not subject to a Habitat Conservation Plan, Natural Community Conservation Plan or other local, regional, or state plan.

#### V. CULTURAL RESOURCES

- A. Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5; or
- B. Would the project cause a substantial adverse change in the significance of an archeological resource pursuant to Section 15064.5; or
- C. Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
- D. Would the project disturb any human remains, including those interred outside of formal cemeteries; or
- E. Would the project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Under the provisions of Assembly Bill 52 (AB 52), this project was routed to Table Mountain Rancheria, Santa Rosa Rancheria, Dumna Wo Wah, and the Picayune Rancheria of Chukchansi Indians. Both Table Mountain Rancheria and Picayune Rancheria responded within 30 days and declined to consult, but requested to be notified in the event that cultural resources are uncovered. The Dumna Wo Wah and Santa Rosa Rancheria Tribal Governments did not respond within the deadline and therefore declined consultation.

While no Tribal Entity identified a resource on this parcel, there remains the possibility of uncovering previously unknown cultural resources. Therefore, during construction of the anaerobic digester and free-stall barns, the applicant will be required to halt all work if a resource is uncovered. Appropriate disposition of the find is detailed in the mitigation measure below, including means by which to contact the tribes.

\* **Mitigation Measure**

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 follow by photos, reports, videos, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours. The applicant must notify the Table Mountain Rancheria Tribal Government by email at [rpennell@tmr.org](mailto:rpennell@tmr.org) and the Picayune Rancheria of Chukchansi Indians by email at [THarter@chukchansi-nsn.gov](mailto:THarter@chukchansi-nsn.gov) of any archeological finds.*

## VI. GEOLOGY AND SOILS

- A. Would the project expose people or structures to potential substantial adverse effects, including risk of loss, injury or death involving:
  1. Rupture of a known earthquake?
  2. Strong seismic ground shaking?
  3. Seismic-related ground failure, including liquefaction?
  4. Landslides?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The subject parcel is located near two pre-quarternary faults located at the border of Madera and Fresno Counties. These faults are more than 1.6 million years old and have not been active in the modern period. Therefore, impacts from these faults on the project site are unlikely. Additionally, there is no increase in the number of employees proposed as part of this application. Further, Figure 9-5 of the Fresno County General Plan Background Report (FCGPBR) indicates that this parcel is located in an area at low risk of seismic hazards.

- B. Would the project result in substantial erosion or loss of topsoil; or
- C. Would the project result in on-site or off-site landslide, lateral spreading, subsidence, liquefaction or collapse; or
- E. Would the project be located on expansive soils, creating substantial risks to life or property?



FINDING: NO IMPACT:

The subject parcel is not likely to result in substantial erosion or loss of topsoil because a water management plan is in place which channels runoff water into the wastewater retention ponds. The site is not located in an area of steep slopes or landslide hazards (Figure 9-6, FCGPBR) or areas where expansive soils are common (Figure 7-1).

- F. Would the project have soils incapable of adequately supporting the use of septic tanks or alternative disposal systems where sewers are not available for wastewater disposal?

FINDING: NO IMPACT:

There are no new septic or wastewater facilities proposed with this application. The increase in herd size is not anticipated to increase the use of septic systems on site and therefore the existing systems will be adequate. Review of the system by the Fresno County Department of Public Health did not identify any concerns with the capacity of the existing septic system.

## VII. GREENHOUSE GAS EMISSIONS

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

FINDING: LESS THAN SIGNIFICANT IMPACT:

Review of the estimated emissions (discussed more completely in Section III) by the Air District determined that with compliance to existing regulations, this project would not generate greenhouse gases that could have a significant effect on the environment and will not be in violation of any plan, policy, or regulation adopted for the purpose of reducing emissions of greenhouse gases. The proposed herd increase results from a transfer of animals from a nearby dairy, and this transfer will place them in free-stall barns, which are more protective of air quality than their existing open lots.

## VIII. HAZARDS AND HAZARDOUS MATERIALS

- A. Would the project create a significant public hazard through routine transport, use or disposal of hazardous materials; or
- B. Would the project create a significant public hazard involving accidental release of hazardous materials into the environment?

FINDING: NO IMPACT:

The new anaerobic digester will not create a public hazard through the transport, use, or disposal of hazardous materials. This project authorizes the transfer (increase) in herd at the project site and the operation of the anaerobic digester.

- C. Would the project create hazardous emissions or utilize hazardous materials, substances or waste within one quarter-mile of a school?

FINDING: NO IMPACT:

The subject parcel is not located within one quarter-mile of a school. The nearest schools are Tranquillity High School and Tranquillity Elementary School, both of which are more than five miles south of the project site.

- D. Would the project be located on a hazardous materials site?

FINDING: NO IMPACT:

The subject parcel is not located on a hazardous materials site or any Brownfields, Superfund, Toxic Inventory Release, or RCRA facility.

- E. Would a project located within an airport land use plan or, absent such a plan, within two miles of a public airport or public use airport, result in a safety hazard for people residing or working in the project area; or
- F. Would a project located within the vicinity of a private airstrip result in a safety hazard for people residing or working in the project area?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The subject parcel is not located in the vicinity of a public or private airport. Review of aerial photographs (Google Earth, August 7, 2017) identified one private airstrip, located west of the subject parcel and just north of the Southern Pacific Railroad. This project is not anticipated to create a safety hazard for people residing or working in the area because the project site is generally located more than 2,000 feet from this location and all development will be within typical development standards. The improvements will be adjacent to and of similar height to existing improvements on the site. The airstrip operates under County Conditional Use Permit No. 2284, which includes a condition that the airstrip will not be operated in a manner to cause a nuisance. Further, the position and orientation of the strip does not encourage flight over the project site.

- G. Would the project impair implementation of or physically interfere with an adopted Emergency Response Plan or Emergency Evacuation Plan; or
- H. Would the project expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

FINDING: NO IMPACT:

Approval of this application will not impair the implementation of an Emergency Response Plan or Emergency Evacuation Plan. The subject parcel and other parcels in the vicinity have been determined to be within a non-wildland/non-urban classification of risk for Wildfire and not within an area of state responsibility.

## IX. HYDROLOGY AND WATER QUALITY

- A. Would the project violate any water quality standards or waste discharge requirements or otherwise degrade water quality?

FINDING: NO IMPACT:

This project will not violate any water quality standards or waste discharge requirements. Wastewater from the project site will be processed through the digester then applied to Dairy-owned fields. **The existing permitted facility is currently authorized to apply wastewater from the project site to 24 parcels in the vicinity of the proposed digester. Application is consistent with the Nitrogen Budget prepared by a qualified agronomist.** There is no increase to the amount of fields watered in this manner.

- B. Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge so that there would be a net deficit in aquifer volume or a lowering of the local groundwater table; or
- C. Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site; or
- D. Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in flooding on or off site; or
- E. Would the project create or contribute run-off which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted run-off; or
- F. Would the project otherwise substantially degrade water quality?

FINDING: NO IMPACT:

All grading on site will be done in compliance with existing County regulations; as part of the permitting process, the applicant will be required to prepare an engineered grading and drainage plan to show how additional runoff generated by the proposed development will be handled without adversely impacting adjacent properties. There are no streams, rivers, or canals running through the project site. Further, total water usage

is likely to decrease as a result of the consolidation of the subject dairy and the dairy across the street, from where the herd increase will be transferred.

G. Would the project place housing within a 100-year floodplain?

FINDING: NO IMPACT:

There is no housing proposed as part of this application.

H. Would the project place structures within a 100-year flood hazard area that would impede or redirect flood flows; or

I. Would the project expose persons or structures to levee or dam failure?

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to FEMA Firm Panel 2050H, a large portion of the property is found to be under Flood Zone A which is subject to flooding from the 100-year storm. Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 (Flood Hazard Areas) of the Fresno County Ordinance. No import is allowed for grading associated with development within the flood zone; any dirt material used must be obtained within the designated flood area as to not cause an impact to the determined area of flood. A FEMA Elevation Certificate is required for every structure proposed to be constructed within the flood zone.

The project site is located in an area at risk of inundation due to dam failure; however, compliance to the above-identified regulations (Chapter 15) will reduce these impacts to less than significant. Further, persons and animals at the project site will have been transferred from the adjacent dairy, which is at similar risk.

J. Would the project cause inundation by seiche, tsunami or mudflow?

FINDING: NO IMPACT:

The project site is not located near a body of water large enough to produce seiche or tsunami. The lack of steep slopes in the vicinity preclude inundation by mudflow.

## X. LAND USE AND PLANNING

A. Will the project physically divide an established community; or

B. Will the project conflict with any Land Use Plan, policy or regulation of an agency with jurisdiction over the project; or

C. Will the project conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan?

FINDING: NO IMPACT:

This project will be completely within the existing property lines of the subject parcel and will not impact any nearby communities. Surrounding parcels are improved with dairies and agricultural uses and do not represent an established community. The increased allowed herd numbers and new digester do not conflict with any land use plan or agency ordinances. There are no Habitat Conservation Plans or Natural Community Conservation Plans applicable to the project.

## XI. MINERAL RESOURCES

- A. Would the project result in the loss of availability of a known mineral resource; or
- B. Would the project result in the loss of availability of a locally-important mineral resource recovery site designated on a General Plan?

FINDING: NO IMPACT:

According to Figure 7-7 (FCGPBR), the subject parcel is not located in an area where known mineral resources are located.

## XII. NOISE

- A. Would the project result in exposure of people to severe noise levels; or
- B. Would the project result in exposure of people to or generate excessive ground-borne vibration or ground-borne noise levels; or
- C. Would the project cause a substantial permanent increase in ambient noise levels in the project vicinity; or
- D. Would the project result in a substantial temporary or periodic increase in ambient noise levels?

FINDING: NO IMPACT:

The operation of a commercial digester and transfer of herd are not anticipated to increase noise levels in the vicinity of the project. As noted earlier, the animals will be transferred from a dairy across the street and therefore increased cow population is not expected to result in significant increase to noise at the site.

- E. Would the project expose people to excessive noise levels associated with a location near an airport or a private airstrip; or
- F. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

FINDING: LESS THAN SIGNIFICANT IMPACT:

There is a private airstrip located on the parcel west of the subject parcel; however, the project does not propose an increase to the number of employees present on the site. Currently, those employees work between both dairies and approval of this project would remove the need to travel to the other site. The airstrip is operating under Conditional Use Permit No. 2284, which includes a condition of approval requiring that the airstrip be operated in such a manner as to avoid creating a noise nuisance on surrounding properties. The strip is used to apply necessary treatments to surrounding agricultural developments and was determined to be in an appropriate location (distant from residential uses) at the time of approval. Trips may vary between five and twenty trips per day during the peak season.

XIII. POPULATION AND HOUSING

- A. Would the project induce substantial population growth either directly or indirectly; or
- B. Would the project displace substantial numbers of existing housing; or
- C. Would the project displace substantial numbers of people, necessitating the construction of housing elsewhere?

FINDING: NO IMPACT:

The scope of this project is limited to an increase in herd size, the building of new stalls to house those animals and the installation/operation of an anaerobic digester. These activities will not induce substantial population growth.

The location of the digester and corrals are proposed within the existing dairy operation and will not displace any existing housing.

XIV. PUBLIC SERVICES

- A. Would the project result in substantial adverse physical impacts associated with the provision of new or physically-altered public facilities in the following areas:
  - 1. Fire protection;
  - 2. Police protection;
  - 3. Schools;
  - 4. Parks; or
  - 5. Other public facilities?

FINDING: NO IMPACT:

There will be no impacts to public services. The subject parcel is located close enough to the other dairy from which the animals will be transferred that fire and police services will not be impacts. This project will not increase the attendance at local schools or increase the use of public parks or other facilities.

## XV. RECREATION

- A. Would the project increase the use of existing neighborhood and regional parks; or
- B. Would the project require the construction of or expansion of recreational facilities?

FINDING: NO IMPACT:

The increase in herd size and the installation of the digester do not have the potential to increase the use of existing parks or other recreational facilities. The energy generated by the digester will be sold to the power company and will help to reduce the amount of coal-produced energy.

## XVI. TRANSPORTATION/TRAFFIC

- A. Would the project conflict with any applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation; or
- B. Would the project conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demands measures; or
- C. Would the project result in a change in air traffic patterns; or
- D. Would the project substantially increase traffic hazards due to design features; or
- E. Would the project result in inadequate emergency access; or
- F. Would the project conflict with adopted plans, policies or programs regarding public transit, bicycle or pedestrian facilities or otherwise decrease the performance or safety of such facilities?

FINDING: NO IMPACT:

The increase to the herd size will not result in additional traffic because the additional animals will be transferred from the dairy directly to the northwest of the project site. Due to the proximity of the two dairies, there will be no effective increase in traffic. No traffic will be generated by the proposal to produce energy for sale.

## XVII. UTILITIES AND SERVICE SYSTEMS

- A. Would the project exceed wastewater treatment requirements; or

- B. Would the project require construction of or the expansion of new water or wastewater treatment facilities; or
- C. Would the project require or result in the construction or expansion of new storm water drainage facilities; or
- D. Would the project have sufficient water supplies available from existing entitlements and resources, or are new or expanded entitlements needed; or
- E. Would the project result in a determination of inadequate wastewater treatment capacity to serve project demand; or
- F. Would the project be served by a landfill with sufficient permitted capacity; or
- G. Would the project comply with federal, state and local statutes and regulations related to solid waste?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The existing dairy operates under a waste management plan, which indicates which parcels may receive manure and process wastewater from the dairy operations. Adherence to this plan is required by the Central Valley Regional Water Quality Control Board (CVRWQCB). Wastewater is currently piped to either a recovery tank or a storage lagoon. When the digester is installed, the wastewater drain lines will be rerouted so that all wastewater travels through the anaerobic digester prior to entering the existing retention ponds. Following processing in the digester, remaining water will be applied to dairy-owned fields as irrigation. **The current operation is authorized to apply treated wastewater to 24 parcels in the area.**

Review of this application by the CVRWQCB determined that the proposed increase in head would require the operators to file a new Report of Waste Discharge, due to the increased volume of discharge; however, the Water Resources Division of the Fresno County Department of Public Works and Planning indicated that water usage is likely to decrease as the proposed increase to herd size is due to a complete transfer of animals from a nearby dairy, which will cease operations.

There is sufficient capacity proposed to accommodate all waste generated by the proposed increase in herd. No additional landfill material will be produced in the typical operation of this parcel. Some waste may be produced during construction and demolition of the source facility and such waste will be delivered to a landfill with sufficient capacity. The project will 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.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

- A. Does the project have the potential to 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, 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 prehistory or history?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The California Department of Fish and Wildlife has identified the project sites as unique areas of undisturbed land within the highly developed agricultural landscape. Several special-status species are known to occur in this area, including: the blunt-nosed leopard lizard, the San Joaquin kit fox, the tricolored blackbird, the Fresno kangaroo rat, burrowing owl, American badger, western spadefoot, and coast horned lizard. With the Mitigation Measures identified in Section IV.A, which require habitat surveys, then species-specific surveys and specific avoidance measures, impacts will be less than significant.

\* **Mitigation Measures**

*See Section IV.A*

- B. Does the project have impacts that are individually limited, but cumulatively considerable; or
- C. Does the project have environmental impacts which will cause substantial adverse effects on human beings, either directly or indirectly?

FINDING: LESS THAN SIGNIFICANT IMPACT:

In general, this project will reduce cumulative effects because the proposed increase to the herd size relates to the consolidation of two existing dairies onto this site. This will result in less driving, less wear on road, and more efficient herd management. Further, the proposed digester is expected to reduce the amount of methane released into the air.

## **CONCLUSION/SUMMARY**

Based upon the Initial Study prepared for Conditional Use Permit Application No. 3580, 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 Aesthetics, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, Recreation, and Transportation/Traffic.

Potential impacts related to Agriculture, Air Quality, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, and Utilities and Service Systems have been determined to be less than significant.

Potential impacts relating to Biological Resources, and Cultural Resources have determined to be less than significant with compliance with the 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 southeast corner of Tulare and “M” Street, Fresno, California.

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