



County of Fresno

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

May 1, 2018

Stephen Shehadey
PO Box 1231
Fresno CA 93715

Dear Applicant:

Subject: Resolution No. 12708 - Initial Study Application No. 7318 and Unclassified
Conditional Use Permit Application No. 3580

On March 29, 2018, the Fresno County Planning Commission approved your Unclassified Conditional Use Permit with Conditions. A copy of the Planning Commission Resolution is enclosed.

Since no appeal was filed with the Clerk to the Board of Supervisors within 15 days, the Planning Commission's decision is final.

The approval of this project will expire two years from the date of approval unless a determination is made that substantial development has occurred. When circumstances beyond the control of the Applicant do not permit compliance with this time limit, the Commission may grant an extension not to exceed one additional year. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Unclassified Conditional Use Permit.

If you have any questions regarding the information in this letter please contact me at cmonfette@co.fresno.ca.us or 559-600-4204.

Sincerely,

Chrissy Monfette, Planner
Development Services and Capital Projects Division

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Enclosure



Inter Office Memo

DATE: March 29, 2018
TO: Board of Supervisors
FROM: Planning Commission
SUBJECT: RESOLUTION NO. 12708 - INITIAL STUDY APPLICATION NO. 7318 and UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3580

APPLICANT/
OWNER: Stephen Shehadey

REQUEST: 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)

PLANNING COMMISSION ACTION:

At its hearing of March 29, 2018, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Commissioner Eubanks and seconded by Commissioner Chatha to adopt the Mitigated Negative Declaration prepared for the project, adopt the recommended Findings of Fact in the Staff Report, and approve Unclassified Conditional Use Permit Application No. 3580, subject to the Conditions listed in Exhibit B.

EXHIBIT A

Initial Study Application No. 7318
Unclassified Conditional Use Permit Application No. 3580

- Staff: The Fresno County Planning Commission considered the Staff Report dated March 29, 2018, and heard a summary presentation by staff.
- Applicant: The Applicant's consultant concurred with the Staff Report and the recommended Conditions, but did not offer any additional information to describe the project. A representative of the Applicant described the project and offered the following information to clarify the intended use:
- This is an opportunity to upgrade this site and close a facility that is more than 50 years old.
 - The improvements represent the most up-to-date technology regarding animal care and housing.
 - This project will help Fresno County meet SB 1383 renewable energy requirements by converting manure to energy.
- Others: No other individuals presented information in support of or in opposition to the application.
- Correspondence: No letters were presented to the Planning Commission in support of or in opposition to the application.

**Mitigation Monitoring and Reporting Program
Unclassified Conditional Use Permit Application No. 3580
(Including Conditions of Approval and Project Notes)**

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
*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 blackfoot, 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 U.S. Fish and Wildlife Service's (USFWS)	Applicant	Applicant/PW&P	Prior to ground-disturbing activities

		<p>“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>	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*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</p>	Applicant	Applicant/PW&P	Prior to ground-disturbing activities

*6.	Biological Resources	<p>buffers may be removed once the nesting season has ended.</p> <p>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.</p> <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
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*7.	Biological Resources	<p>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:</p> <ul style="list-style-type: none"> 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. 	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*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 shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours. 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-nsn.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.	<p>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.</p>
2.	<p>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.</p>
3.	<p>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 the California Department of Food and Agriculture, and the County of Fresno Department of Public Health, Environmental Health Division. Please contact John Smith at (559) 600-3357 for more information.</p>
4.	<p>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 (http://cers.calepa.ca.gov/ or https://www.fresnocupa.com/) 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.</p>
5.	<p>All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5. This Division discusses proper labeling, storage and handling of hazardous wastes.</p>
6.	<p>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.</p>
7.	<p>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.</p>
8.	<p>Any existing or proposed parking area should comply with the Fresno County Off-street Parking Design Standards.</p>

Notes

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 so as to not cause an impact to the determined area of flooding.