



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 8 June 9, 2022

SUBJECT: Unclassified Conditional Use Permit Application No. 3719

Amend Unclassified CUP 3642 to allow the expansion of a previously approved biomethane clean-up facility to include the installation and operation of a biomethane reception facility, which will accept biomethane gas transported by tube trailer from off-site dairy digesters, in conjunction with an existing natural gas pipeline injection operation, on an approximately 14,000 square-foot portion of an existing 508.93-acre parcel occupied by the Open Sky Dairy, in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the west side of Elkhorn Grade approximately 0.6 of one-mile southwest of its intersection with W. Elkhorn Avenue, and approximately 5.25 miles northwest of the unincorporated community of Lanare (APN: 050-170-48S) (12103 Elkhorn Avenue) (Sup. Dist. 1).

OWNER: Eric te Velde

APPLICANT: Five Points Pipeline, LLC

STAFF CONTACT: Jeremy Shaw, Planner
(559) 600-4207

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Approve Unclassified Conditional Use Permit Application No. 3719 with recommended Findings and Conditions; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Conditions of Approval and Project Notes
2. Location Map
3. Zoning Map
4. Land Use Map
5. Site Plans
6. Operational Statement
7. Planning Commission Resolution for CUP 3642 & IS No. 7608

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agriculture	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.	No change
Parcel Size	508.93-acres.	No change
Project Site	Approximately 14,000 square-foot area, northerly adjacent to the existing biomethane upgrading facility approved by CUP 3642.	Construct on biogas offloading facility on approximately 14,000 square feet of the subject property.
Structural Improvements (Project site)	Biogas upgrade facility.	Biogas reception point and a 1,404 square-foot warehouse with control room, southerly adjacent to the existing biogas clean-up facility.
Nearest Residence	There is a cluster of residential dwellings located in the northeast corner of the subject parcel, approximately 2,200 feet (less than one half-mile) from the proposed facility.	No change
Surrounding Development	Farmland/ Dairies/ sparse residential development	No change

Criteria	Existing	Proposed
Operational Features	Open Sky Ranch: Dairy operation with approximately 6,700 cows; a dairy digester and biogas upgrading facility.	Addition of a biogas offloading facility (reception point).
Employees	38 current	Additional 20-25 employees during construction
Customers	None	No change
Traffic Trips	61 Round trips per day	Additional 20-25 trips
Lighting	Outdoor lighting associated with the existing dairy operation, existing biogas upgrading facility, and residential uses	Additional lighting for proposed biogas reception facility
Hours of Operation	24 hours per day, 7 days per week	Proposed facility will typically operate during daylight hours, but will be available 24/7

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15301- Existing Facilities, of the California Environmental Quality Act (CEQA) guidelines that the proposed project will not have a significant effect on the environment and is not subject to CEQA. Class I consists of the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of the existing, or former use.

Additionally, on August 8, 2019, a Mitigated Negative Declaration (MND) based on Initial Study No. 7608 was adopted by the Planning Commission for Unclassified Conditional Use Permit (CUP) No. 3642.

According to Section 15162(a) of the CEQA Guidelines, when an MND is adopted for a project, no subsequent MND shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following: 1) substantial changes are proposed in the project which will require major revisions of the previous MND 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 MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously-identified significant effects; and 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 MND was adopted, shows any of the following: (A) the project will have one or more significant effects not discussed in the

previous MND; (B) significant effects previously examined will be substantially more severe than shown in the previous MND; (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 MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative. The current project proposal entails a minor expansion of the previously approved biogas upgrading (clean-up) facility, to include the construction and operation of a biomethane reception point, to allow tube trailers carrying pre-cleaned biomethane from off-site dairies, to be loaded into the existing upgrading facility for compression and subsequently injected into the PG&E main gas transmission line which is southerly adjacent to the existing facility.

This proposal was routed for review to those agencies that previously commented on the Initial Study prepared for Unclassified CUP No. 3642. No specific concerns were noted. The project area is substantially the same as the previously approved project, and there have not been any changes in circumstances or new information provided by the appropriate agencies contacted. Therefore, it has been determined that no subsequent Mitigated Negative Declaration shall be undertaken for this project per Section 15162 of the California Environmental Quality Act.

PUBLIC NOTICE:

Notices were sent to nine (9) 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 CUP may be approved only if five Findings specified in the Fresno County Zoning Ordinance, Section 873-F are made by the Planning Commission.

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

BACKGROUND INFORMATION:

The existing biogas clean-up facility was authorized by Unclassified CUP No. 3642, approved in August 2019 in conjunction with a biogas pipeline; and digester cluster approved under separate Conditional Use Permits, connecting multiple anaerobic digesters at several participating dairies. This project proposes a new facility which will allow biogas delivered by truck to be minimally processed for commercial use and injected into the PG&E natural gas transmission pipeline.

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.***

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	Front (north): 2,600 feet Side (west): one mile Side (east): 42 feet Rear (south): 1,100 feet	Yes
Parking	One parking space for every two permanent employees.	No change	Yes
Lot Coverage	No requirement	N/A	N/A
Space Between Buildings	Separation between animal shelter and structures use for human habitation: minimum of 40 feet.	No change	Yes
Wall Requirements	None	N/A	N/A
Septic Replacement Area	100 percent of the existing system.	No change	Yes
Water Well Separation	Septic tank: 50 feet Disposal field: 100 feet Seepage pit: 150 feet	No changes to water wells or septic system are proposed.	Yes

Reviewing Agency/Department Comments Regarding Site Adequacy:

Development Engineering Section: According to FEMA, FIRM Panel 2850J, a portion of the subject property is under Flood Zone A, subject to flooding from the 100-year storm. Any development shall conform to the provisions of Fresno County Ordinance Code Title 15.48, Flood Hazard Areas. Any proposed structures and related electrical equipment/components proposed within the flood hazard area, shall comply with FEMA flood elevation requirements.

Records indicate that the property is located within an Agricultural Preserve and subject to Williamson Act Contract. Any proposed development may require additional clearances.

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

Finding 1 Analysis:

The project proposes to utilize an approximately 14,000 square-foot portion of the subject parcel to construct the proposed biomethane reception point, which is adjacent to the existing facilities to the north, and will connect to the existing biomethane upgrading facility approved by CUP 3642. The site abuts Elkhorn Grade on the west side of the road; however, the project proposes access from W. Elkhorn Avenue approximately one half-mile to the north. The site is located on an active dairy and will be situated immediately adjacent to several settling ponds. Based on review of the site plan, and aerial images, the site appears to be adequate in size and shape to accommodate the proposed biogas reception point. No reviewing agency or County Department

comments were received which expressed concerns regarding adequacy of the site.

Recommended Conditions of Approval:

None

Finding 1 Conclusion:

Finding 1 can be made as the subject parcel and project site are adequate in size and shape to accommodate the proposed biogas offloading facility.

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.*

		Existing Conditions	Proposed Operation
Private Road	No	N/A	N/A
Public Road Frontage	Yes	W. Elkhorn Avenue Elkhorn Grade	No change
Direct Access to Public Road	Yes	W. Elkhorn Avenue Elkhorn Grade	The truck reception point proposes to take access from W. Elkhorn Avenue via an existing unimproved access road, running north and south across the subject parcel
Road Annual Daily Trips		W. Elkhorn Avenue: 300 Elkhorn Grade: less than 100	No change
Road Classification		W. Elkhorn Avenue Elkhorn Grade	Local Road Local Road
Road Width		W. Elkhorn Avenue Elkhorn Grade	60-foot Right-of-way 60-80-foot Right-of-way
Road Surface		W. Elkhorn Avenue Elkhorn Grade	Asphalt Asphalt

Traffic Trips		Trips associated with existing dairy operation and biogas upgrading facility maintenance	20-25 round trips during construction; and 5-6 truck and trailer trips per day during operation
Traffic Impact Study (TIS) Prepared	No	A traffic impact study was not made a requirement for this project	No change
Road Improvements Required		No	N/A

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

Road Maintenance and Operations Division: Elkhorn Avenue is a County maintained road classified as a local road with an existing and ultimate 60-foot right-of-way, as per the County General Plan.

Elkhorn Grade is a County maintained road with an existing 60-80-foot right-of-way, and an ultimate right-of-way of 60 feet, according to the General Plan.

Howard Avenue is County maintained road classified as a local road with an existing, and ultimate 60-foot right-of-way, according to the County General Plan.

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

Finding 2 Analysis:

The project proposes to take access from W. Elkhorn Avenue via an existing unimproved farm road. No concerns were expressed about the adequacy of W. Elkhorn Avenue to serve the project site, or with the additional traffic impacting Elkhorn Avenue.

Based on the above information, W. Elkhorn Avenue is adequate in width and pavement type to accommodate proposed biomethane reception point.

Recommended Conditions of Approval:

None.

Finding 2 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.*

Surrounding Parcels

	Size:	Use:	Zoning:	Nearest Residence:
North	139 acres	Pistachio orchard/open space	AE-20	None
South	576.21 acres 398.59 acres	Field crops	AE-20	None
East	128 acres	Field crops	AE-20	None
West	606.22 acres	Dairy	AE-20	0.87 mile

Reviewing Agency/Department Comments:

No comments related to adverse impacts on abutting property, other than those related to regulatory requirements were received by any reviewing agencies or departments.

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

Finding 3 Analysis:

Based on a review of the site plan and operational statement, there are no features of the project which would adversely affect surrounding properties.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Finding 3 Conclusion:

Finding 3 can be made as the project will not have an adverse effect upon surrounding properties.

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

Relevant Policies:	Consistency/Considerations:
General Plan Policy LU-A.13: <i>The County shall protect agricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations.</i>	In the case of this project, the adjacent property is owned by the applicant, and the proposed use is appurtenant to the existing dairy operation. As such no buffer was necessary, as no conflicts with any surrounding agricultural uses were anticipated.
General Plan Policy LU-A.14: <i>The County shall ensure that the review of discretionary permits include an assessment of the conversion of productive agricultural land</i>	The project involves development of a small area of land, approximately 14,000 square-foot of an existing dairy operation adjacent to the edge of the property near the road right-

Relevant Policies:	Consistency/Considerations:
<p><i>and that mitigation be required where appropriate.</i></p>	<p>of-way. Therefore, the project will not result in the conversion of a substantial amount of productive agricultural land; accordingly, no mitigation has been included. The subject parcel is enrolled in the Williamson Act program, and as such, the project site may be required to modify the Williamson Act contract as needed, through a non-renewal or cancellation process.</p>
<p>General Plan Policy LU-A.17: <i>The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation. The evaluation shall include the following:</i></p> <ul style="list-style-type: none"> <li data-bbox="259 756 803 1302"> <p><i>a. A determination that the water supply is adequate to meet the highest demand that could be permitted on the lands in question. If surface water is proposed, it must come from a reliable source and the supply must be made “firm” by water banking or other suitable arrangement. If groundwater is proposed, a hydrogeological investigation may be required to confirm the availability of water in amounts necessary to meet project demand. If the lands in question lie in an area of limited groundwater, a hydrogeological investigation shall be required.</i></p> <li data-bbox="259 1323 803 1900"> <p><i>b. A determination of the impact that use of the proposed water supply will have on other water users in Fresno County. If use of surface water is proposed, its use must not have a significant negative impact on agriculture or other water users within Fresno County. If use of groundwater is proposed, a hydrogeological investigation may be required. If the lands in question lie in an area of limited ground water, a hydrogeological investigation shall be required. Should the investigation determine that significant pumping-related physical impacts will extend beyond the boundary of the property</i></p> 	<p>The project will not use a substantial amount of water. The Applicant’s submitted operational statement indicates that construction will utilize approximately 80,000 to 100,000 gallons during construction; and, approximately 200-400 gallons per day during operation. The project was reviewed by the County Water and Natural Resources Division, which expressed no concerns related to water use, and added that the project site is not located in an area of the County designated as being water short.</p>

Relevant Policies:	Consistency/Considerations:
<p><i>in question, those impacts shall be mitigated.</i></p> <p>c. <i>A determination that the proposed water supply is sustainable or that there is an acceptable plan to achieve sustainability. The plan must be structured such that it is economically, environmentally, and technically feasible. In addition, its implementation must occur prior to long-term and/or irreversible physical impacts or significant economic hardship to surrounding water users.</i></p>	
<p>General Plan Policy HS-B.1: <i>The County shall review project proposals to identify potential fire hazards and to evaluate the effectiveness of preventative measures to reduce the risk to life and property.</i></p>	<p>The project will be subject to the requirements of the current Fire Code and Building Code.</p>
<p>General Plan Policy HS-F.1: <i>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.</i></p> <p><i>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/):</i></p> <ol style="list-style-type: none"> 1. <i>There is a 100% or more increase in the quantities of a previously disclosed material;</i> 2. <i>The facility begins handling a previously undisclosed material at or above the HMBP threshold amounts.</i> 3. <i>Change in site map or hazardous storage locations.</i> <p><i>The business shall certify that a review of the business plan has been conducted at least once a year, and that any necessary changes were made and that the changes were submitted to the local agency.</i></p>	<p>All hazardous wastes shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5</p>

Relevant Policies:	Consistency/Considerations:
<p>General Plan Policy HS-F.2: <i>The County shall require that applications for discretionary development project that will use hazardous materials or generate hazardous waste in large quantities include detailed information concerning hazardous waste reduction, recycling, and storage.</i></p>	<p>The proposed facility is not anticipated to use hazardous materials or generate hazardous wastes large quantities. However, if any handling of hazardous materials or generation of hazardous waste occurs, the project may be required to update its hazardous materials business plan.</p>

Reviewing Agency Comments:

Policy Planning Unit, Development Services Division: Pursuant to Fresno County Williamson Act program guidelines, the use of land enrolled in the program is limited to commercial agricultural operations and other compatible uses adopted by the Board of Supervisors.

Biomethane facilities are not considered compatible uses on land enrolled in the Williamson Act program; therefore the 14,000 square-foot expansion area proposed to be connected to the existing biomethane facility must be removed from the program through the contract non-renewal process.

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

Finding 4 Analysis:

The project is consistent with the General Plan policies other than the subject parcel is enrolled in the Williamson Act program which imposes certain restrictions on the use of land under contract. The proposed project is not considered a compatible use on land under contract; therefore, the property owner was required to record a Notice of Nonrenewal of the contract on the 14,000 +/- square-foot portion of land proposed for use as a biomethane reception point.

Recommended Conditions of Approval:

None

Finding 4 Conclusion:

Finding 4 can be made based on the factors discussed above, and compliance with the notice of nonrenewal requirement under the Williamson Act. The proposed biogas offloading facility can be found to be consistent with General Plan.

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

Finding 5 Analysis:

The proposed Mitigation Measures and Conditions of Approval were developed based on studies and consultation with specifically qualified staff, consultants, and outside agencies. They were developed to address the specific impacts of the proposed project and were designed to

address the public health, safety and welfare. Additional comments and project notes have been included to assist in identifying existing non-discretionary regulations that also apply to the project. The Applicant has not advised staff of any specific objection to the proposed Conditions of Approval.

Finding 5 Conclusion:

Finding 5 can be made

PUBLIC COMMENT:

None

SUMMARY/CONCLUSION:

Based on the factors cited in the analysis, staff believes the required Findings for granting the Unclassified Conditional Use Permit can be made. Staff therefore recommends approval of Unclassified Conditional Use Permit Application No. 3719, amending CUP 3642, subject to the recommended Conditions of Approval and mandatory project notes.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to determine the required Findings can be made based on the analyses described within the staff report and move to approve Unclassified Conditional Use Permit Application No. 3719, amending Unclassified Conditional Use Permit No. 3642. subject to the Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Denial Action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Unclassified Conditional Use Permit Application No. 3719; 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.

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EXHIBIT 1

**Unclassified Conditional Use Permit Application No. 3719
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	All Mitigation Measures, Conditions of Approval, and Project Notes for Unclassified Conditional Use Permit Nos. 3642-3647 shall remain in effect, except as modified with the approval of Unclassified Conditional Use Permit No. 3719.
2.	Development and operation shall be in substantial conformance with the approved Site Plans, Detail Drawings, Elevation Drawings and Operational Statement.

Conditions of Approval reference recommended Conditions for the project.

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	The approval of this Conditional Use Permit shall become void if there has not been substantial development within two (2) years after the approval of said Conditional Use Permit; or if there has been a cessation in the occupancy or use of land or structures authorized by said Conditional Use Permit for a period in excess of two (2) years.
2.	Plans, Permits and Inspections will be required for all on-site improvements.
3.	For unpaved or gravel surface access roads, the first 100 feet off of the edge of the County road right-of-way must be graded and asphalt concrete paved or treated with a dust palliative.
4.	Any existing or proposed driveway shall be set back a minimum of ten (10) feet from the property line.
5.	If not already present, a ten-foot by ten-foot corner cut-off shall be improved for sight distance purposes at any proposed driveway accessing W. Elkhorn Avenue, Howard Avenue, Elkhorn Grade, or Cerini Avenue.
6.	If during development activities, any oil or natural gas wells are encountered that were not part of this review, the property owner/project proponent is expected to notify the California Department of Conservation, Geologic Energy Management Division (CALGEM), construction site well review engineer in the Inland District Office, and file for Division review, an amended site plan with well casing diagrams.
7.	Any additional storm water runoff generated by the proposed development cannot be drained across property lines or into the road right-of-way, and must be retained on-site, as per County standards.
8.	An encroachment permit from the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning will be required for any work done in the County right-of-way.
9.	All proposed improvements shall be located outside of the County road right-of-way. Setbacks to proposed structures shall be measured from the ultimate County road right-of-way.

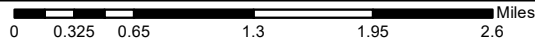
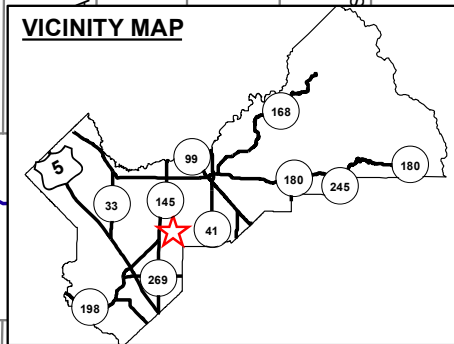
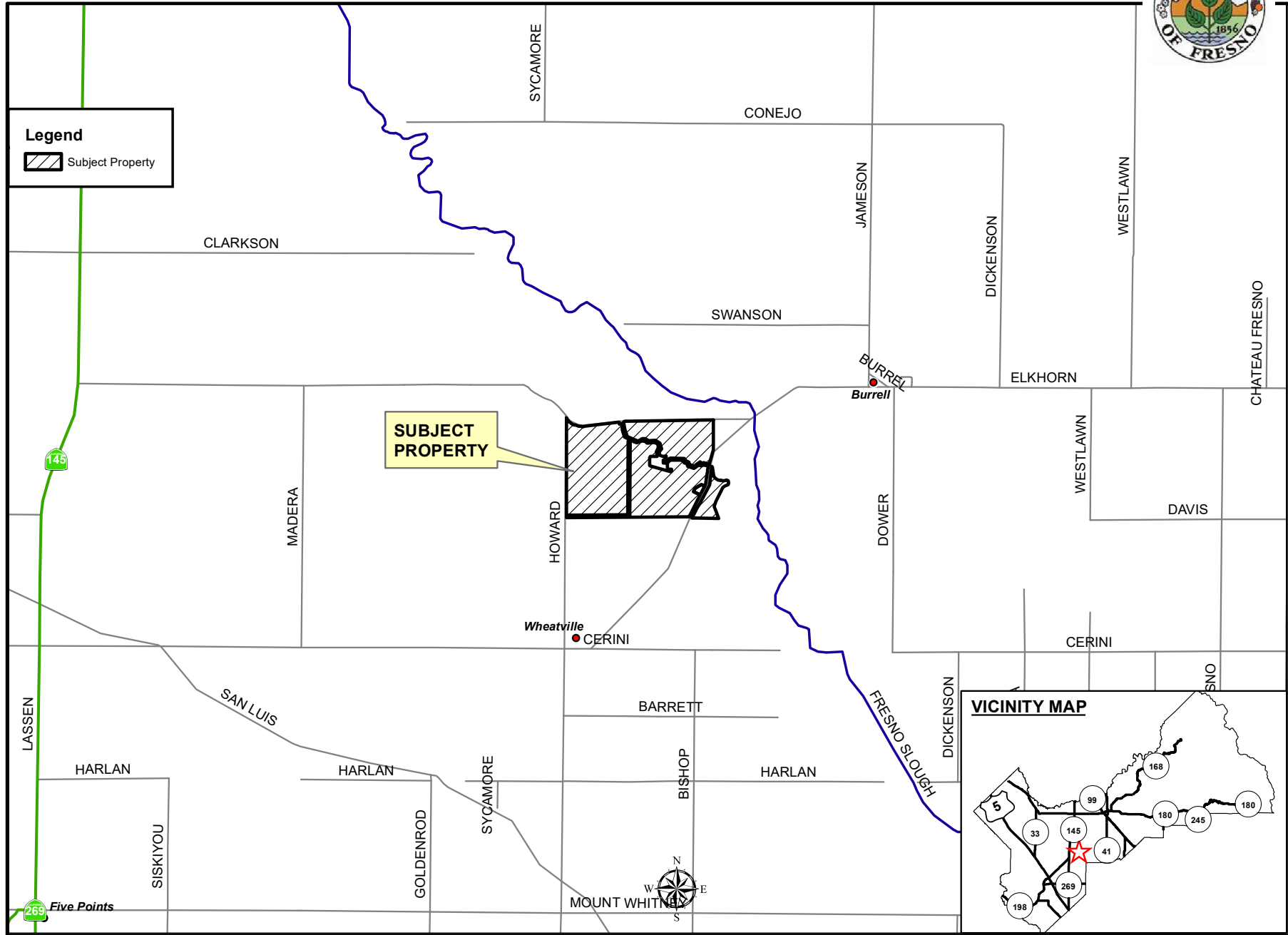
EXHIBIT 1

Notes

10.	The proposed use shall comply with the Fresno County Noise Ordinance, Section 8.40 of the Fresno County Ordinance Code.
11.	The project shall comply with the provisions of the Fresno County Flood Hazard Ordinance, Fresno County Ordinance Code Section 15.48. Any structure, tank, electrical panels or other equipment placed within the flood hazard area will require an elevation certificate (1988 Datum) prepared by a licensed land surveyor.
12.	According to FEMA, FIRM Panel 2850 J, a portion of the subject property is found to be under Flood Zone A, subject to flooding from the 100-year storm. Any development within the special flood hazard area, shall conform to the requirements of Title 15, Chapter 15.48 Flood Hazard Areas, of the Fresno County Ordinance Code.
13.	<p>Within 30 days of the occurrence of any of the following events, the Applicant/operator shall update their online Hazardous Materials Business Plan and site map:</p> <ol style="list-style-type: none"> 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. <p>The business shall certify that a review of the business plan has been conducted at least once every year and that any necessary changes were made and that the changes were submitted to the local agency.</p> <p>All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5. This Division discusses proper labeling, storage and handling of hazardous wastes.</p> <p>If the anaerobic digester process requires accepting manure or other feedstock from other than their own property, the facility would be subject to the Transfer/Processing Operations and Facilities Regulatory Requirements (Title 14, California Code of Regulations, Division 7, Chapter 3, and Article 6.0-6.35).</p>
14.	Any proposed uses within the PG&E fee strip and/or easement may include a California Public Utilities Commission (CPUC) Section 851 filing, which requires CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.
15.	The Burrel Union Elementary School District and the Riverdale Joint Unified School District in which you are proposing construction are authorized by State law to adopt a resolution requiring the payment of a construction fee. If this occurs, the County, in accordance with State Law which authorizes the fee, will not be able to issue a building permit without certification from the school district that the fee has been paid. An official certification form will be provided by the County when application is made for a building permit.

LOCATION MAP

CUP 3719



CUP 3719
STR 3-17/18

EXISTING ZONING MAP

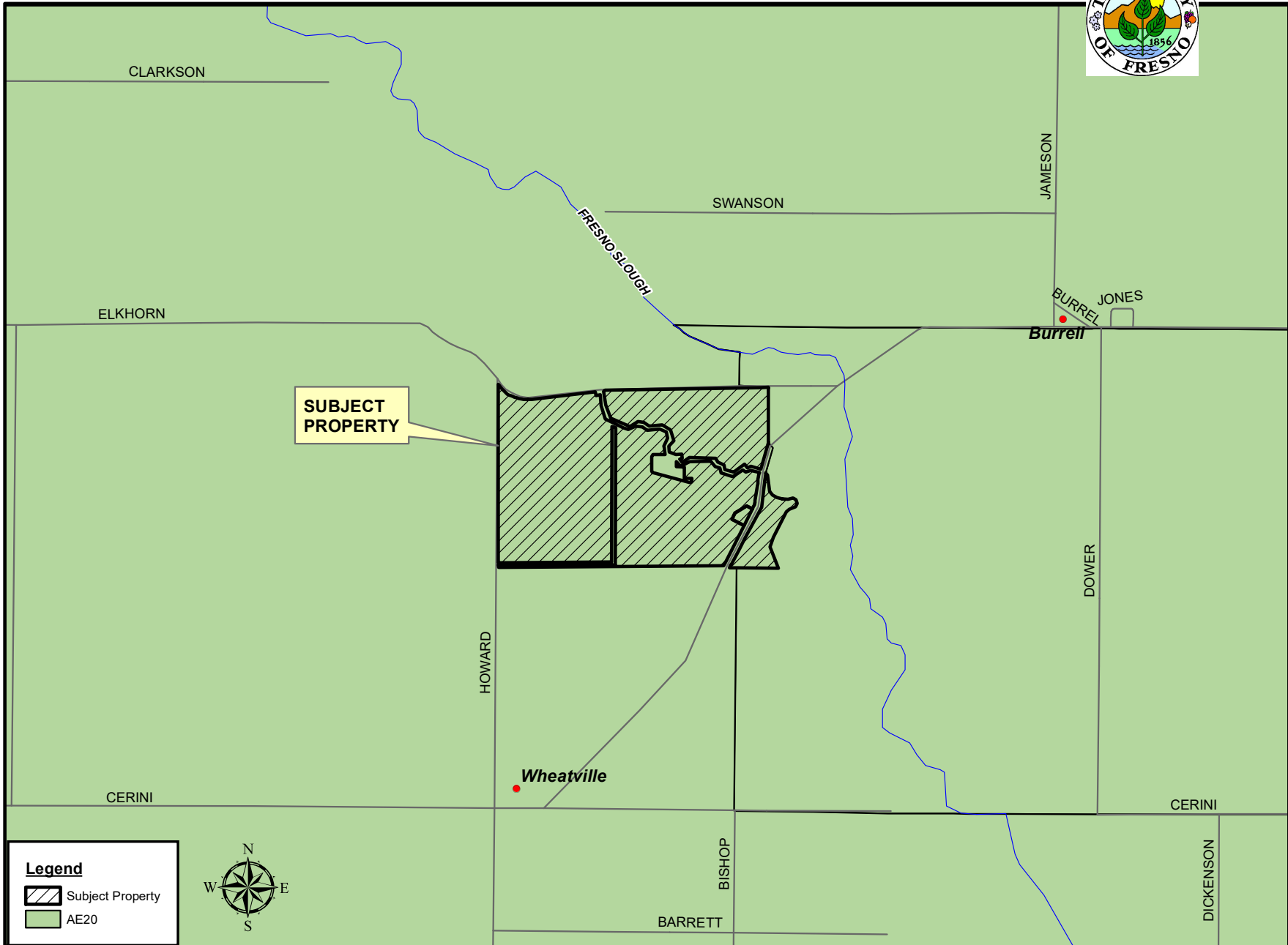
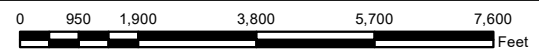
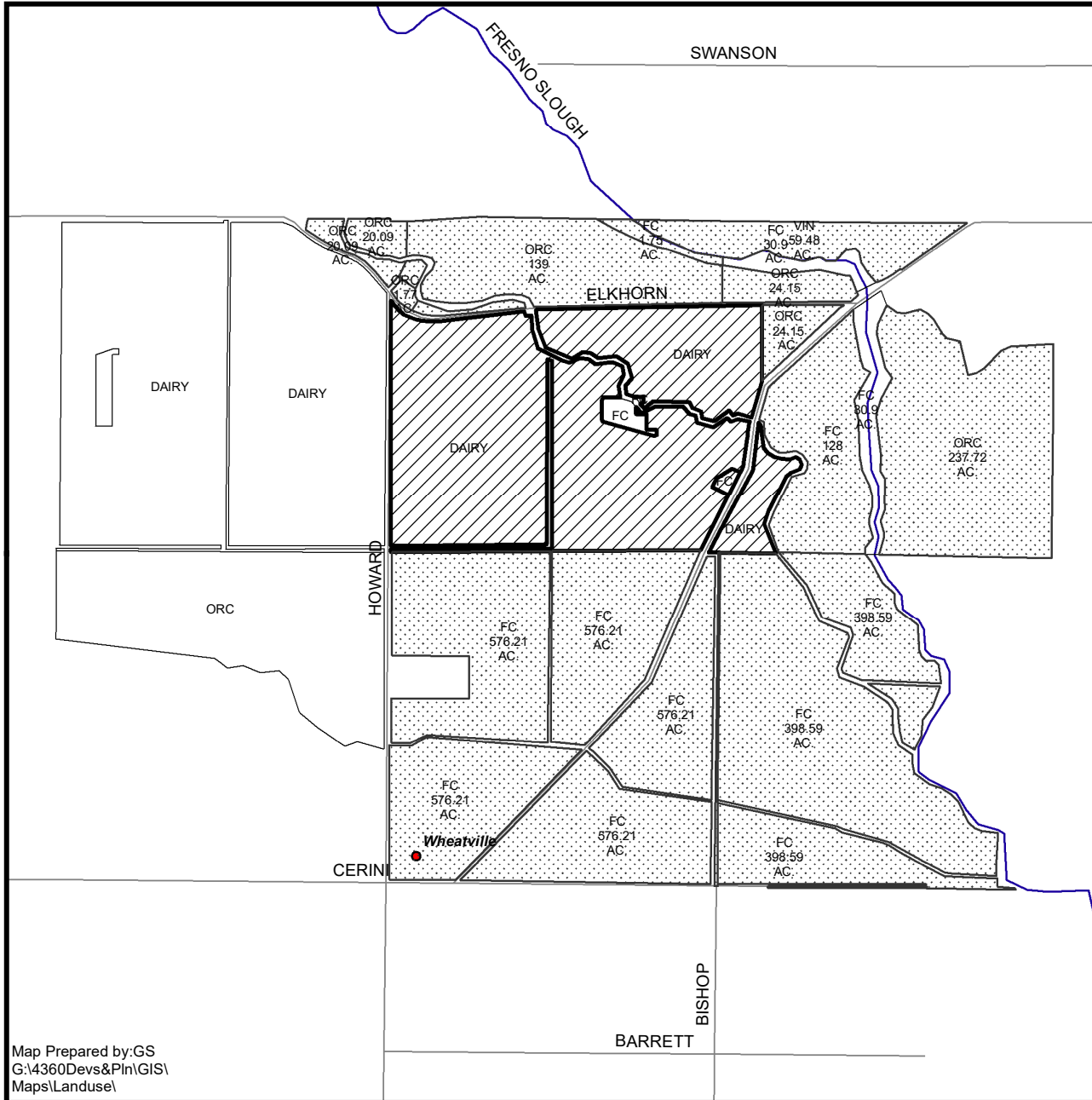


EXHIBIT 3



EXISTING LAND USE MAP

CUP 3719

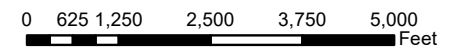


LEGEND

- DAIRY
- FC - FIELD CROP
- ORC - ORCHARD
- SF#- SINGLE FAMILY RESIDENCE
- V - VACANT
- VIN - VINEYARD

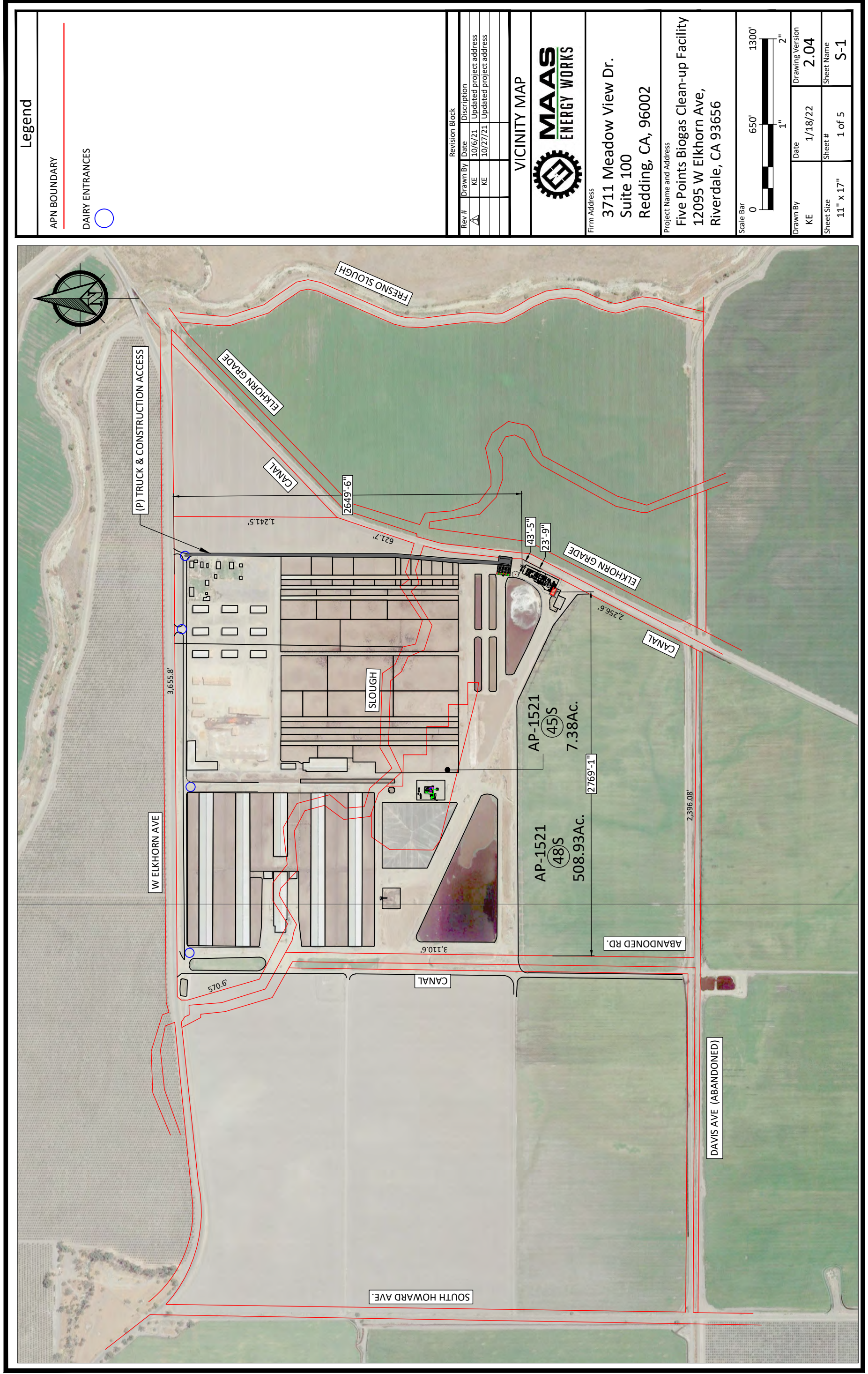
LEGEND:

- Subject Property
- Ag Contract Land



Department of Public Works and Planning
Development Services Division

Map Prepared by:GS
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Maps\Landuse\



Legend

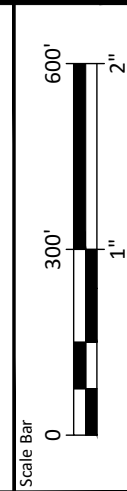
- (P) PROPOSED (E) EXISTING
- APN BOUNDARY
- DAIRY ENTRANCES

DAIRY LAYOUT

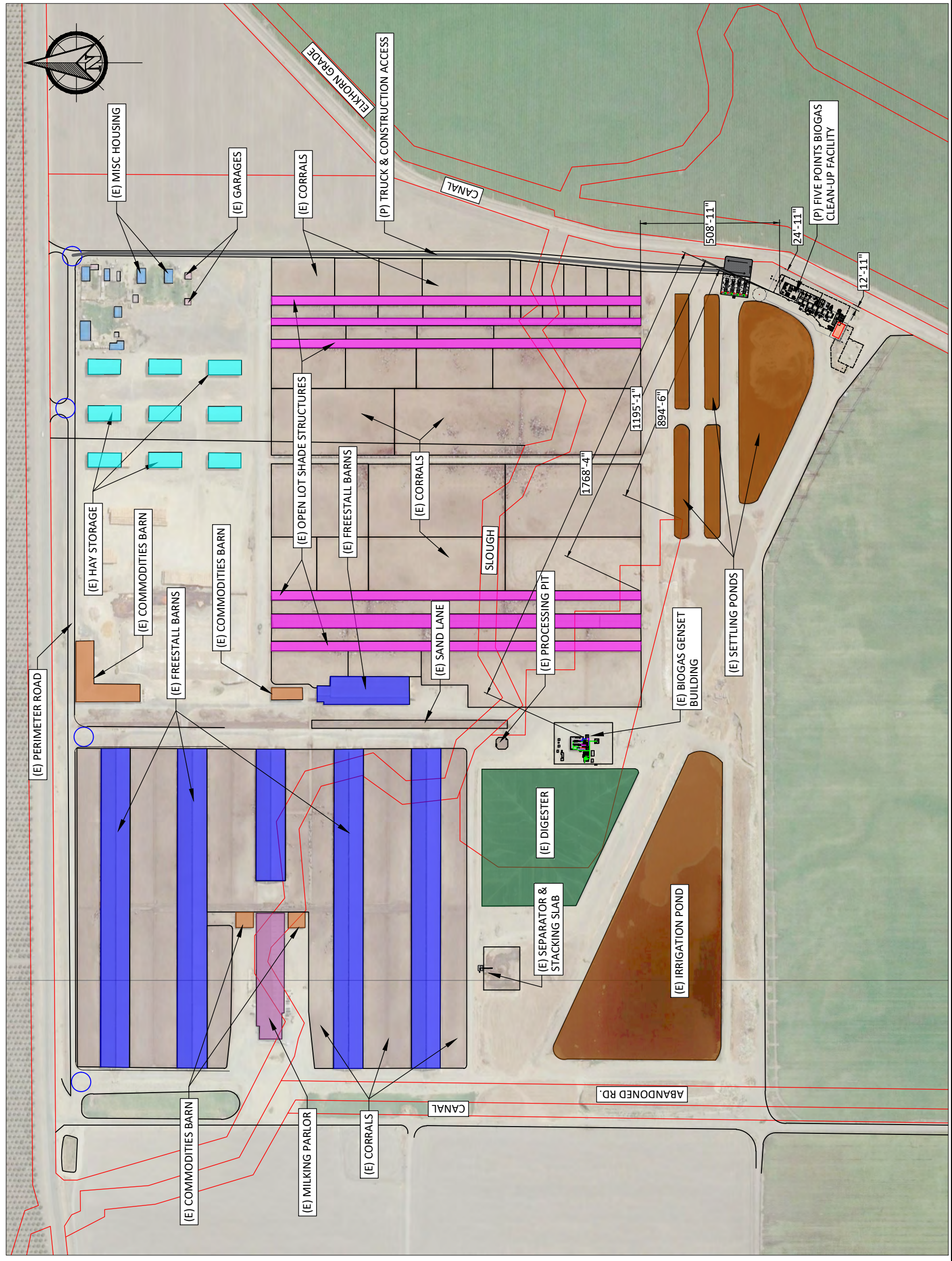


Firm Address
 3711 Meadow View Dr.
 Suite 100
 Redding, CA, 96002

Project Name and Address
 Five Points Biogas Clean-up Facility
 12095 W Elkhorn Ave,
 Riverdale, CA 93656



Drawn By	Date	Drawing Version
KE	1/18/22	2.04
Sheet Size	Sheet #	Sheet Name
11" x 17"	2 of 5	S-2





Legend

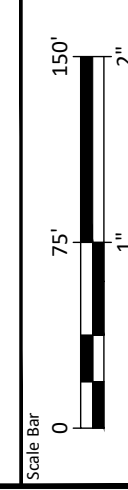
(P) PROPOSED	(E) EXISTING
APN BOUNDARY	

HUB & TRUCKING AREA



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

Project Name and Address
 Five Points Biogas Clean-up Facility
 12095 W Elkhorn Ave,
 Riverdale, CA 93656



Drawn By	Date	Drawing Version
KE	1/18/22	2.04
Sheet Size	Sheet #	Sheet Name
11" x 17"	3 of 5	S-3

(P) FIVE POINTS BIOGAS TRUCKING AREA

(P) 65' x 100' TRUCK TURN AROUND
 1.5 CRUSHED GRAVEL 4" THICK
 ON TOP OF FG

(E) FLARE
 (Clear vegetation from
 within 50' of flare)

(E) SETTLING POND

(P) FIVE POINTS BIOGAS CLEAN-UP FACILITY

(P) GRAVEL AREA

(P) WAREHOUSE (26'x54')

(P) FENCE LINE

ELKHORN GRADE

CANAL

(E) PROJECT IN PLACE



Legend

(P) PROPOSED (E) EXISTING

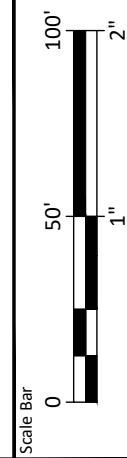
APN BOUNDARY

HUB

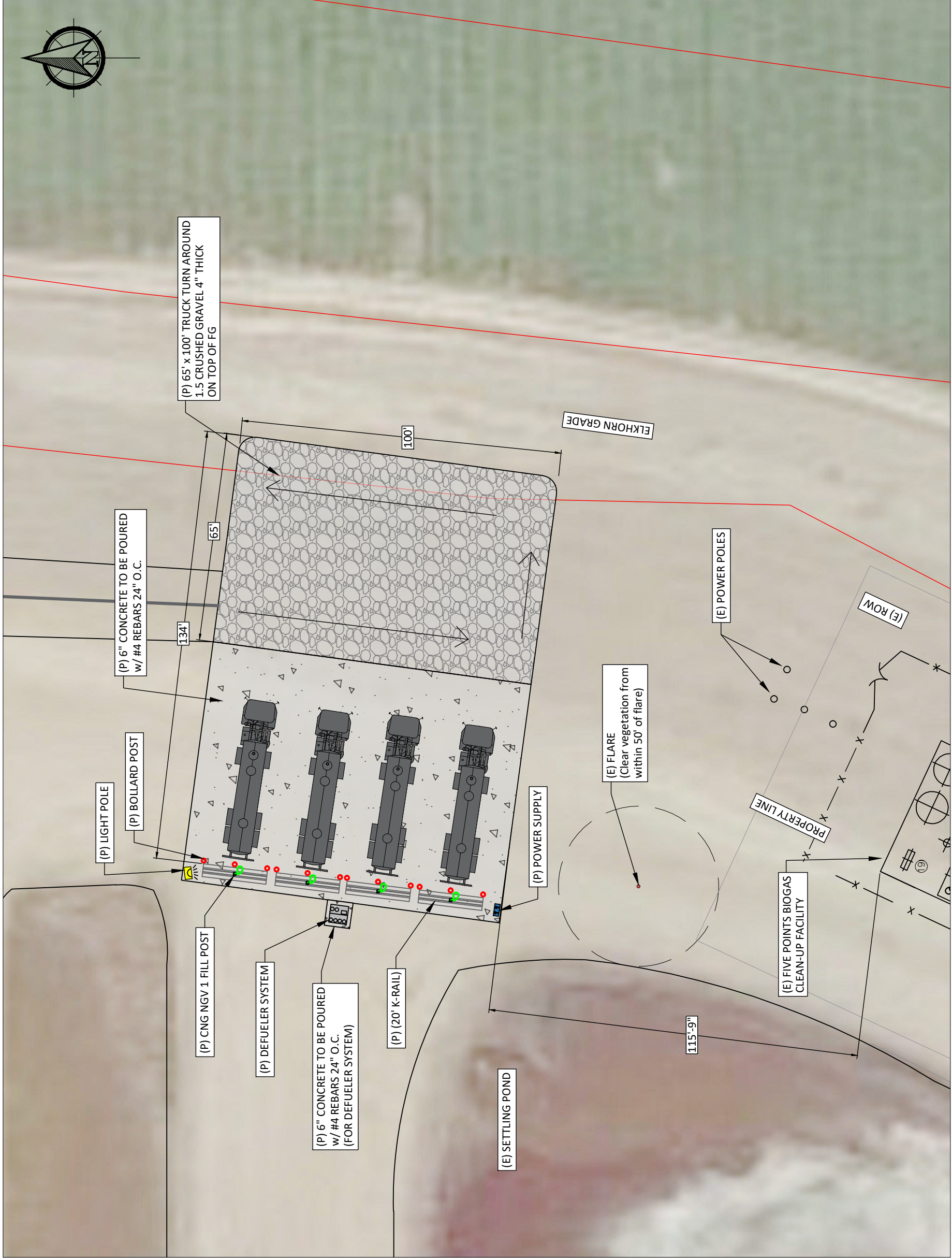


Firm Address
 3711 Meadow View Dr.
 Suite 100
 Redding, CA, 96002

Project Name and Address
 Five Points Biogas Clean-up Facility
 12095 W Elkhorn Ave,
 Riverdale, CA 93656



Drawn By KE	Date 1/18/22	Drawing Version 2.04
Sheet Size 11" x 17"	Sheet # 4 of 5	Sheet Name S-4





3711 Meadowview Dr.
Suite 100
Redding, CA 96002
www.maasenergy.com

Project Description and Operational Statement

Five Points Pipeline Biomethane Reception Point

Five Points Pipeline, LLC

Prepared by Maas Energy Works, Inc

Project Description

Project Details

The Five Points Pipeline Cluster Project (Initial Study 7608 CUP 3642-3647) was a dairy biogas collection and biomethane injection project. The previously approved project included the addition of dairy digesters, a cleanup facility (Hub) and a HDPE gathering pipeline to transport the digesters' biomethane to the Cleanup Facility ("Hub"). After being cleaned to PG&E pipeline quality, the biomethane is injected into the PG&E pipeline. The Five Points Pipeline Biomethane Reception Point ("Proposed Project") is an amendment to IS 7608 CUP 3642-3647.

The biogas collected by the previously approved project comes from individual dairy digesters located on nearby dairy farms. The proposed project aims to deliver biomethane to the previously permitted Hub from additional (separately permitted) digesters, at dairies located outside of the immediate vicinity.

To achieve this, the project proposes to incorporate a Biomethane Reception Point, centrally located at the Five Points Cleanup Facility. This Reception Point will allow the Hub to receive biomethane from the dairies via tube trailers so that additional biomethane can be incorporated into the project without the need for extensive pipeline installation. The biogas will be cleaned to create PG&E pipeline quality biomethane prior to being loaded into the trucks and arriving at the Hub. Therefore, the Hub equipment will only be utilized to ensure compatible compression into the PG&E Injection Point.

Biomethane Reception Point Operational Statement

The Biomethane Reception Point ("Reception Point") will be an 8'x8' concrete Defueling equipment area, an adjacent 100' x 75' concrete slab, and an adjacent 100' x 65' gravel truck turn-around area (see site plans attached). (Dimensions are approximate as engineering is in progress).

The larger (100'x75') concrete slab will support k-rails, fill posts and truck staging. The fill posts will be used for offloading the biomethane. A fill post is a metal post standing on top a K- Rail to host and support the offloading hose (part of the Defueling system).

The smaller (8'x8') concrete area will support a Defueling system which will consist of various equipment designed to offload biomethane from trucks and inject into the existing biomethane interconnection point. This equipment includes hoses, biomethane heaters, regulators, heat exchangers, meters and glycol pumps. The hose is a high-pressure rating

hose on the last section of the gas line coming from the trailer to the Defueler system. The hose contains a safety quick disconnect device, as well as at 1" fitting that connects directly into the trailer to offload the methane. The Defueling system will use up to 60 amps of electricity to heat the incoming biomethane and prevent it from freezing during the offloading process. The biomethane meter will measure the total volume of biomethane offloaded by the trucks to complete the custody transfer process of biomethane. The Biomethane Reception Point will be designed to receive up to 6 trailer loads of biomethane per day. This system will be monitored 24/7 remotely and in person, weekly.

Proposed Operating Hours and Periods of Peak Use:

The Biomethane Reception Point will be available and operational 24/7 but will only be accessible only by private vehicles. The peak operational timeframe is during daylight hours. Offloading will take approximately 5-6.5 hours per vehicle.

On Site Employees and Visitors

The property is not open to the public. The site will require about 10 hours per week of maintenance from one employee. Between two and fifteen people will be on site during offloading, as biomethane offloading requires teams of at least two. On average, around three people at a time are anticipated at the project site.

Surrounding Vicinity

A vicinity map is included with this application showing the proposed location of the Biomethane Reception Point, as well as its proximity to nearby operations. Nearby operations include the Five Points Cleanup Facility, a dairy farm, and surrounding agricultural cropland.

How the Proposed Operation Relates to Nearby Use:

The proposed Biomethane Reception Point is consistent with nearby uses. The neighboring facility is a biogas cleanup hub that receives biogas from the anaerobic digesters on nearby dairy farms. The surrounding areas are almost entirely agricultural and are zoned for agricultural uses. The proposed facilities will not disturb but further utilize and sustain the standard agricultural processes and existing facilities.

Intended Use of All Structures

The Biomethane Reception Point will consist of a concrete slab and decompression and heating equipment. No buildings are proposed.

Size of Structures

The Reception Point's concrete slab will be approximately 100' x 75'.

Type and Number of Commercial Vehicles Used

The Biomethane Reception point will receive loads of biomethane from up to 6 tube trailers per day.

Hazardous Materials

This project incentivizes the capturing and repurposing of biogas that would otherwise be released into the atmosphere. The biogas will be cleaned to remove the sulfur and CO₂, to create biomethane, prior to being hauled by trucks to the Biomethane Reception Point. Under the "Initial Study Environmental Checklist Form, Hazards and Hazardous Materials" section, all components of Initial Study 7608 CUP 3642-3647 received a "less than significant impact" or "no impact" determination. The proposed project will have a comparatively less significant impact as any materials that could be considered hazardous will be cleaned or removed prior to arriving at the Biomethane Reception Point.

The Biomethane Reception Point is an offloading location. There is no on-site storage of the biomethane involved. As soon as the biomethane is offloaded, it will be sent to equipment at the adjacent Hub and immediately be injected into the PG&E pipeline.

The project does involve the transport of (bio)methane. Methane is non-toxic but handling it can be hazardous if done improperly. All portions of the project will comply with the CPUC's Safety Enforcement Division (SED) General Order 112-F as applicable. Handling of hazardous materials are regulated by federal and State laws, which minimizes worker safety risks from both physical and chemical hazards in the workplace. The proposed equipment is engineered and designed to handle the proposed materials, flows and pressures in a safe and effective manner, as described above. While the routine use of the methane gas will occur, risk to the public as a result of its transport or accidental release is less than significant (*reference IS 7608*).

Public Health and Safety Considerations

Methane is naturally odorless, so no additional impacts to odor are anticipated. To manage dust during construction, the project will follow best management practices, as defined by region 5 of the Regional Water Board. This may include watering of high-traffic areas. During normal operation, all site surfaces will produce negligible dust.

Additional lighting will be added and mitigated so that no additional light pollution is anticipated. Lights will be hooded and arranged to direct light away from adjoining properties.

The project will result in a temporary increase in noise during installation of equipment over approximately six months. During operations, there will be insignificant noise level increases over the present use of the land. The site already employs the use of tractors, trucks, and pumps, so any additional noise generated by the project are anticipated to be inconsequential.



County of Fresno

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

September 9, 2019

Five Points Pipeline, LLC
3711 Meadow View Drive #100
Redding 96002

L&J Vanderham Dairy
10846 W. Mt. Whitney Avenue
Riverdale CA 93656

Van der Hoek Dairy Biogas LLC
3711 Meadow View Drive #100
Redding CA 96002

Van der Kooi Dairy Power LLC
13695 W. Elkhorn Avenue
Riverdale CA 93656

Wilson Dairy Biogas LLC
3711 meadow View Drive #100
Redding CA 96002

Dear Applicant:

Subject: Resolution No. 12791 - Initial Study Application No. 7608 and Unclassified
Conditional Use Permit Applications No. 3642, 3643, 3644, 3645, 3646 and 3647

On August 8, 2019, the Fresno County Planning Commission approved your above-referenced project 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 Permits.

If you have any questions regarding the information in this letter, please contact me at jshaw@fresnocountyca.gov or 559-600-4207.

Sincerely,

Jeremy Shaw, Planner
Development Services and Capital Projects Division

JS:ksn
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Enclosure



Inter Office Memo

DATE: August 8, 2019

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12791 - INITIAL STUDY APPLICATION NO. 7608 and UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATIONS NO. 3642, 3643, 3644, 3645, and 3647

APPLICANTS: Five Points Pipeline, LLC; L&J Vanderham Dairy; Van der Hoek Dairy Biogas LLC; Vander Kooi Dairy Power LLC; Wilson Dairy Biogas LLC

OWNERS: Eric A. te Velde & Katelyn J. te Velde Revocable Family Trust; L&J Vanderham Dairy; Pier Van der Hoek & Darlene Van der Hoek as Trustees of the Van der Hoek Family Revocable Trust of September 1, 2011; Van der Kooi Family Trust; Dry Creek Holdings, LLC

REQUEST: Allow the installation of four new covered lagoon anaerobic dairy digesters with related biogas conditioning equipment and biogas generators to produce electricity on four existing dairies; the installation of biogas conditioning equipment at a fifth dairy with an existing digester and generator; the construction of an approximately 10.5-mile underground pipeline to connect the participating dairies; and allow produced biomethane to be transported to a centralized hub where a biogas upgrading facility will be constructed to clean and condense the biogas before it is injected into the PG&E natural gas transmission line.

LOCATION: The project is bounded by the unincorporated communities of Five Points to the southwest, Helm to the north, Burrell to the northeast, and Lanare to the east and southeast; State Route 145 (Madera Avenue) on the west; Mount Whitney Avenue on the south; Jameson Avenue on the east; and Kamm Avenue on the north; within the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone Districts (SUP. DIST. 1 and 4) (Dairies: APN Nos. 040-130-51S, 050-160-16S, 050-270-56S, 050-170-41S, 050-260-12S, 040-130-35S) (Pipeline APN Nos. 040-130-35S, 49, 44S, 48S, 51S; 041-100-17, 45S; 050-160-13S, 16S; 050-170-41S; 050-200-38S; 050-230-20S, 23S; 050-260-10S, 11S, 12S; 050-270-56S).

PLANNING COMMISSION ACTION:


At its hearing of August 8, 2019, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Commissioner Lawson and seconded by Commissioner Eubanks to adopt the Mitigated Negative Declaration prepared for the project, adopt the recommended Findings of Fact for approval of a Conditional Use Permit, and approve Unclassified Conditional Use Permit Nos. 3642, 3643, 3644, 3645, 3646 and 3647, subject to the Conditions listed in Exhibit B.

This motion passed on the following vote:

VOTING:	Yes:	Commissioners Lawson, Eubanks, Abrahamian, Burgess, Chatha, Delahay, Ede, Hill and Vallis
	No:	None
	Absent:	None
	Abstain:	None

STEVEN E. WHITE, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By: 

 William M. Kettler, Manager
 Development Services and Capital Projects Division

WMK:ksn
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NOTE: 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 Classified Conditional Use Permits.

Attachments

EXHIBIT A

Initial Study Application No. 7608

Unclassified Conditional Use Permit Applications No. 3642, 3643, 3644, 3645, 3646, and 3647

Staff: The Fresno County Planning Commission considered the Staff Report dated August 8, 2019, and heard a summary presentation by staff.

Applicant: The Applicant's representative concurred with the Staff Report and the recommended Conditions. He described the project and offered the following information to clarify the intended use:

- Digesters are inserted into the dairy nutrient cycle in order to capture biogas and allow it to be burned, thereby reducing the amount of methane released into the atmosphere; a digester is essentially a large manure pond that is lined and then covered by high-density polyethylene, which allows capture of the biogas.
- The participating dairies have executed lease and manure supply agreements with Five Points Pipeline.
- The cleanup facility consists of a series of compressors, holding vessels, and scrubbers, which convert biogas to biomethane.
- The total cost of the project is 28 million dollars and the project will be employing labor resources, companies, and equipment from the surrounding community.
- One of the environmental benefits of the project is that it is estimated to reduce greenhouse gas emissions by removing about 94 thousand tons per year of combined greenhouse gases, which is roughly equivalent to operation of about 19,000 cars; it is consistent with State greenhouse gas reduction goals.

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
Initial Study Application No. 7608/Unclassified Conditional Use Permit Application Nos. 3642-3647
(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	<p>To mitigate impacts to the tricolored blackbird (TRBL), the following measures shall be implemented:</p> <p>Construction shall be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL, within a minimum 500-foot buffer from the Project site, no more than 10 days prior to the start of implementation to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities, and to evaluate potential Project-related impacts.</p> <p>If an active TRBL nesting colony is found during preconstruction surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time and for this reason the colony should be reassessed to determine the extent of the breeding colony before conducting construction activities.</p> <p>In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code Section 2081 (b), prior to any ground-disturbing activities.</p>	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P) in consultation with CDFW	February 1 through September 15

2.	<p>Biological Resources</p>	<p>To mitigate impacts to the San Joaquin Kit Fox (SJKF) and American Badger, the following measures shall be implemented:</p> <p>Avoidance of Burrows for San Joaquin Kit Fox and American Badger. If dens/burrows that could support any of these species are discovered during the pre-activity clearance surveys conducted under BIO-1, the avoidance buffers outlined below should be established. No work would occur within these buffers unless the biologist approves and monitors the activity. Dens or burrows of these species shall not be destroyed unless it is determined that the den/burrow is not occupied. In no case shall a San Joaquin kit fox natal den or known den be destroyed without the concurrence of USFWS and CDFW, and appropriate artificial den replacements are provided.</p> <ul style="list-style-type: none"> • San Joaquin Kit Fox • Potential Den – 50-feet • Atypical Den – 50-feet (includes pipes and other man-made structures) • Known Den – 100-feet • Natal/Pupping Den – 500-feet <p>American Badger</p> <ul style="list-style-type: none"> • Known Den — 100-feet 	<p>Applicant</p>	<p>Applicant/PW&P in consultation with CDFW</p>	<p>Before and during construction</p>
<p>The Applicants shall assess presence/absence of SJKF by conducting surveys following the USFWS (2011) "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance." Specifically, CDFW advises conducting these surveys in all areas of potentially suitable habitat no less than 14 days and no more than 30 days prior to beginning of ground-disturbing activities.</p> <p>SJKF detection warrants consultation with CDFW to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP), pursuant to Fish and Game Code Section 2081(b).</p> <p>Standard Avoidance and Minimization Measures for the San Joaquin kit fox and American badger - The following standard avoidance and minimization measures are recommended to be implemented:</p>					

			<ul style="list-style-type: none"> • Construction-related vehicles should observe a daytime speed limit of 20 mph throughout the site in all project areas, except on County and City roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction should be minimized to the extent possible. However, if night construction activities do occur, then the speed limit should be reduced to 10 mph. Off-road traffic outside of designated project areas should be prohibited. • To prevent inadvertent entrapment of kit foxes or other wildlife during the construction phase of the project, all excavated, steep-walled holes or trenches more than 2 feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks should be installed. Before such holes or trenches are filled, they should be thoroughly examined for trapped animals. If at any time a trapped or injured kit fox is discovered, USFWS and CDFW should be contacted as noted below. • Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved only once to remove it from the path of construction activity until the fox has escaped. • All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in securely closed containers and removed at least once a week from a construction or project site.
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	<ul style="list-style-type: none"> • No pets, such as dogs or cats, should be permitted on the project site to prevent harassment, mortality of kit foxes, or destruction of dens. • Use of rodenticides and herbicides in project areas should be restricted. This is necessary to prevent primary or secondary poisoning of special-status species and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and federal legislation, as well as additional project-related restrictions deemed necessary by USFWS. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox. 	
	<ul style="list-style-type: none"> • A representative should be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a special-status species or who finds a dead, injured, or entrapped special-status species. The representative will be identified during the employee education program and their name and telephone number should be provided to USFWS. 	
	<ul style="list-style-type: none"> • In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or USFWS should be contacted for guidance. 	
	<ul style="list-style-type: none"> • Any person who is responsible for inadvertently killing or injuring a special-status animal species should immediately report the incident to their representative. This representative should contact CDFW immediately in the case of a dead, injured, or entrapped special-status species. The CDFW contact for immediate assistance is State Dispatch at 916-445-0045. They will contact the local warden or wildlife biologist. USFWS should be contacted at the number below. 	
	<ul style="list-style-type: none"> • The Region 8 Sacramento Fish and Wildlife Office and Region 4 CDFW should be notified in writing within three working days of the accidental death or 	

						<p>injury to a kit fox during project-related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The USFWS contact is the Chief of the Division of Endangered Species, at the addresses and telephone numbers below.</p> <p>U.S. Fish and Wildlife Service Region 8 – California and Nevada 2800 Cottage Way Sacramento, CA 95825 Contact: Tim Ludwick Phone: 916-414-6464</p> <ul style="list-style-type: none"> • New sightings of kit fox should be reported to CNDDDB. A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed should also be provided to the appropriate wildlife agencies. <p>Den Avoidance - In the event that a potential den that may be suitable for American badger, San Joaquin kit fox, or burrowing owl is detected during pre-activity clearance surveys, the biologist should monitor the den using cameras and tracking medium for five days to determine if the den is occupied by a special-status species. If after five (5) days no activity is detected, then the den can be backfilled. Construction personnel may collapse the den only under the direct supervision of the biologist. If a special-status species is detected using the den, the den must be avoided until the animal leaves on its own. A minimum 100-foot buffer should be constructed using orange construction fencing around the den during the nonbreeding season (April to November). During the breeding season (December to March), the buffer should be extended to 250 feet. Consultation with USFWS and/or CDFW will be required prior to collapsing dens known to be occupied by kit foxes. If authorized by CDFW, passive relocation of wildlife may be accomplished using one-way doors to exclude wildlife from dens. An exclusion plan approved by CDFW would be required prior to the installation of one-way doors.</p> <p>To mitigate impacts to the Swainson's Hawk (SWHA), the following measures shall be implemented:</p>
3.	Biological Resources		Applicant	Applicant/PW&P in consultation with CDFW	February 1 through	

	<p>Construction is to be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting raptors following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) prior to project initiation. In addition, CDFW recommends that a qualified biologist conduct additional pre-construction surveys for active nests no more than 10 days prior to the start of construction.</p> <p>If an active SWHA nest is found during pre-construction surveys, CDFW recommends implementation of a minimum 1/2-mile no-disturbance buffer until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.</p> <p>If the 1/2-mile no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, acquisition of an ITP for SWHA is necessary prior to project implementation, pursuant to Fish and Game Code Section 2081(b) to comply with CESA.</p>		September 15
4.	<p>Biological Resources</p> <p>If project activities are planned to start during the migratory bird nesting season, February 1 to September 15, a pre-activity nesting bird survey should be conducted within seven (7) days of the start of these activities. These surveys should be phased with construction of the project. If active nests are detected during the survey, or at any time during construction of the project, an avoidance buffer will be established by a qualified biologist based on the species and the activities that are underway. For raptor species (except Swainson's hawk), the avoidance will typically be 500 feet. For non-raptor species, the buffer will be 250 feet. Note that some bird species are known to nest on human structures, including construction equipment. Construction personnel should be educated about this possibility as part of the employee education program.</p>	Applicant	Before and during construction
5.	<p>Biological Resources</p> <p>To mitigate impacts to the Giant Garter Snake (GGS), the following measures shall be implemented:</p>	Applicant	Before and during construction

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

			Prior to Permits																							
		Applicant	Applicant/PW&P in consultation with CDFW																							
<table border="1"> <thead> <tr> <th rowspan="2">Location</th> <th rowspan="2">Time of Year</th> <th colspan="3">Level of Disturbance</th> </tr> <tr> <th>Low</th> <th>Med</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>Nesting sites</td> <td>April 1- Aug 15</td> <td>200 meters</td> <td>500 meters</td> <td>500 meters</td> </tr> <tr> <td>Nesting sites</td> <td>Aug 16- Oct 15</td> <td>200 meters</td> <td>200 meters</td> <td>500 meters</td> </tr> <tr> <td>Nesting sites</td> <td>Oct 16- Mar 31</td> <td>50 meters</td> <td>100 meters</td> <td>500 meters</td> </tr> </tbody> </table>	Location	Time of Year	Level of Disturbance			Low	Med	High	Nesting sites	April 1- Aug 15	200 meters	500 meters	500 meters	Nesting sites	Aug 16- Oct 15	200 meters	200 meters	500 meters	Nesting sites	Oct 16- Mar 31	50 meters	100 meters	500 meters	<p>If BUOW are found to occupy the Project site and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance of the Project site during Project activities at a rate that is sufficient to detect BUOW if they return.</p>	Applicant	Applicant/PW&P in consultation with CDFW
Location			Time of Year	Level of Disturbance																						
	Low	Med		High																						
Nesting sites	April 1- Aug 15	200 meters	500 meters	500 meters																						
Nesting sites	Aug 16- Oct 15	200 meters	200 meters	500 meters																						
Nesting sites	Oct 16- Mar 31	50 meters	100 meters	500 meters																						
7.	<p>Biological Resources</p> <p>To mitigate impacts to sensitive habitat, the following measures shall be implemented:</p> <p>A formal stream mapping and wetland delineation shall be conducted by a qualified biologist to determine the location and extent of streams (including any floodplain) and wetlands within and adjacent to the Project area. Please note that, while there is overlap, State and Federal definitions of wetlands as well as what activities require Notification pursuant to Fish and Game Code Section 1602 differ.</p> <p>Therefore, it is advised that the wetland delineation identify both State and Federal wetlands in the Project area as well as what activities may require Notification to comply with the Fish and Game Code. Fish and Game Code Section 2785 (g)</p>																									

	<p>defines wetlands; further, Section 1600 et seq. applies to any area within the bed, channel, or bank of any river, stream, or lake. It is important to note that while accurate wetland delineations by qualified individuals have resulted in more rapid review and response from USACE and CDFW, substandard or inaccurate delineations have resulted in unnecessary time delays for applicants due to insufficient, incomplete, or conflicting data. CDFW advises that site map(s) designating wetlands, as well as the location of any activities that may affect a lake or stream, be included with any Project site evaluations.</p> <p>Fish and Game Code Section 1600 et seq. requires an entity to notify CDFW prior to commencing any activity that may: (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. For additional information on Notification requirements, please contact our staff in the LSA Program at (559) 243-4593.</p>	Applicant	Applicant/PW&P in consultation with CDFW	Prior to Permits
8.	Biological Resources	<p>Prior to the issuance of building permits, if Stinson Canal cannot be avoided, specific impacts on the features shall be quantified by an aquatic resources delineation prepared by a qualified biologist. A Central Valley Regional Water Quality Control Board Section 401 Water Quality Certification, a Section 404 ACOE permit and Section 1602 California Department of Fish and Wildlife Streambed Alteration Agreement shall be obtained, or confirmation received from these agencies that regulatory permits are not required.</p>	Applicant	Applicant/PW&P in consultation with CDFW
9.	Biological Resources	<p>Worker Environmental Awareness Training: Prior to the initiation of construction, and for the duration of project construction and maintenance activities that could affect natural habitat, all new personnel should attend a Construction Personnel Environmental Awareness Training and Education Program. The program should be developed by a qualified biologist. Any employee responsible for the operation and maintenance (O&M) of the completed facilities should also attend the Construction Personnel Environmental Awareness Training and Education Program.</p>	Applicant	Applicant/PW&P in consultation with CDFW

			<p>a) The program should include information on the life history of the burrowing owl, American badger, San Joaquin kit fox, Swainson's hawk, migratory birds and raptors, and special-status plant species that may be encountered during construction and operations and maintenance activities.</p> <p>b) The program should discuss each species' legal protection, status, the definition of "take" under the Endangered Species Act, measures the project operator must implement to protect the species, reporting requirements, specific measures that each worker should employ to avoid take of wildlife species, and penalties for violation of the State and federal ESAs.</p> <p>c) The program should provide information on how and where to bring injured animals for treatment in case any animals are injured on the project site, and how to document animal mortalities and injuries.</p> <p>d) An attendance form signed by each worker indicating that environmental training has been completed will be kept on record.</p>	Applicant	Applicant/PW&P	During ground-disturbing activities
10.	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.</p>	Applicant	Applicant/PW&P	During construction and operation
11.	Aesthetics		<p>All outdoor lighting shall be hooded and directed so as not to shine toward adjacent properties and public streets.</p>	Applicant	Applicant/PW&P	During construction and operation

Conditions of Approval	
1.	Development of the property shall be in accordance with the Site Plan, Elevations and Operational Statement approved by the Planning Commission.
2.	The Applicant shall prepare an Over and Across Agreement to permit access, equipment, conduit, pipeline, etc. crossing from one parcel to another from APN 041-030-20S to APN 041-030-48S. The agreement shall be reviewed and approved by the Development Services and Capital Projects Division of the Department of Public Works and Planning prior to the issuance of building permits.
3.	Prior to occupancy, a Site Plan Review shall be submitted to and approved by the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance for CUP Nos. 3642-3647. Conditions of the Site Plan Review may include: design of parking and circulation areas, access, on-site grading and drainage, fire protection, landscaping, signage and lighting.

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

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Unclassified Conditional Use Permit (CUP) Nos. 3642-3647 shall become void unless there has been substantial development within two years of the effective date of approval.
2.	Plans, permits, and inspections are required for the proposed improvements. Contact the Building and Safety Section of the Fresno County Department of Public Works and Planning at (559) 600-4540 for permits and inspections.
3.	All survey monumentation – property corners, section corners, County benchmarks, Federal benchmarks and triangulation stations, etc. – within the subject area shall be preserved in accordance with Section 8771 of the Professional Land Surveyors Act and Section 6730.2 of the Professional Engineers Act.
4.	The proposed Project may be subject to the following Air District Rules and Regulations: <ul style="list-style-type: none"> – Regulation VIII (Fugitive PM 10 Prohibitions) – Rule 4102 (Nuisance) – Rule 4601 (Architectural Coatings) – Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt Paving and Maintenance Operations) – Rule 4002 (National Emission Standards for Hazardous Air Pollutants) – Rule 4550 (Conservation and Management Practices) – Rule 4570 (Confined Animal Facilities) – District Rule 2201 (New and Modified Stationary Source Review) or District Rule 2010 (Permits Required).
5.	Engineered grading plans will be required for an work exceeding 1,000 cubic yards. An engineered grading plan and grading permit will be required for all project site improvements on all subject parcels.
6.	To satisfy Best Practicable Treatment or Control requirements of the Digester Order, the proposed new pond should meet the Tier 1 liner design specifications cited in Pond Specification C.5 of the Reissued Waste Discharge Requirements General

Notes

	Order for Existing Milk Cow Dairies, Order No. R5-2013-0122.
7.	Any additional runoff generated by the proposed developed of this site should be retained on site.
8.	An encroachment permit from the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning will be required for any work done in the County right-of-way.
9.	All proposed improvements shall be located outside of the County road right-of-way. Setbacks to proposed structures shall be measured from the ultimate County road right-of-way.
10.	This application shall comply with California Code of Regulation Title 24 – Fire Code. Prior to receiving Fresno County Fire Protection District (FCFPD) conditions of approval for this project, the Applicant shall submit construction plans to the County of Fresno Department Public Works and Planning for review. It is the Applicant's responsibility to deliver three sets of plans to FCFPD. This project shall annex to Community Facilities District No. 2010-01 and will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought. FCFPD requirements may include, but are not limited to: water flow requirements, water storage requirements, fire pumps, road access, Public Resources Code 4290, fire hydrants, fire sprinkler systems, fire alarm systems, premises identification and Title 15.60 County Ordinance.
11.	Prior to the production of compost from operations of the digester, the facility shall apply for and obtain a permit to operate a solid waste facility from the County of Fresno Department of Public Health, Environmental Health Division acting as the Local Enforcement Agency. Please contract Solid Waste staff at (559) 600-3271 for more information.
12.	The projects shall comply with the provisions of the Fresno County Flood Hazard Ordinance, Fresno County Ordinance Code Section 15.48. Any structure, tank, electrical panels or other equipment placed within the flood hazard area will require an elevation certificate (1988 Datum) prepared by a licensed land surveyor.
13.	For all County-maintained road crossings, the Applicant shall be required to: <ul style="list-style-type: none"> • Execute an agreement with the County, assuming financial responsibility for and repair of any impacts to the County-maintained roadways resulting from the installation or operation of underground infrastructure and/or signage within the County right-of-way. • Acquire valid encroachment permits prior to construction of any crossings. • Provide both hard-copy and digital, stamped As-Built engineering drawings detailing all infrastructure within the County right-of-way.
14.	At any road crossings, the proposed pipeline shall be encased in a steel sleeve (diameter and wall thickness as appropriate for the size of the carrier pipe). All County road crossings of the proposed pipeline shall be bored and sleeved in a steel casing, which shall extend from right-of-way line to right-of-way line of the road. All such road crossings shall be designed by a registered civil engineer and reviewed by and permitted through the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning.

Notes	
	<p>No longitudinal encroachments of the proposed pipeline shall be allowed in the County road right-of-way.</p> <p>Any electrical interconnects shall be located outside of the County right-of-way unless the facilities are deeded to Pacific Gas and Electric (PG&E) for maintenance purposes.</p>
15.	The Applicants and or entities shall register with Underground Service Alert (USA) North, and pay annual fees to ensure that USA is notified any time there is a proposed excavation in proximity to the pipeline.
16.	The project shall comply with the Health and Safety Element of the Fresno County General Plan and the provisions of Chapter 8.40 - Noise Control of the Fresno County Ordinance Code.
17.	<p>Within 30 days of the occurrence of any of the following events, the Applicant/operators shall update their online Hazardous Materials Business Plan (HMBP) and Site Map:</p> <ol style="list-style-type: none"> 1. There is a 100 percent or more increase in the quantities of a previously undisclosed material; or 2. The facility begins handling a previously undisclosed material at or above the HMBP threshold levels. <p>The proposed operation shall certify that a review of the business plan has been conducted at least once every year and that any necessary changes were made and that the changes were submitted to the local agency.</p>
18.	<p>All hazardous waste shall be handled in accordance the requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5, which discusses proper labeling, storage and handling of hazardous wastes.</p> <p>If the anaerobic digester process requires accepting manure or other feedstock from off site, the facility will be subject to the Transfer/Processing Operations and Facilities Regulatory Requirements [Title 14, California Code of Regulations (CCR), Division 7, Chapter 3, Articles 6.0-6.35].</p>
19.	According to the Applicant's submitted operational statement, the proposed operation entails that separated solids from the anaerobic digesters will be disposed of at an appropriate solid waste facility. If the facilities change operations to use the separated solids for composting, the Applicants/operators shall, prior to the production of compost from digester operations, apply for and obtain a permit to operate a Solid Waste Facility from the County of Fresno Department of Public Health, Environmental Health Division (Local Enforcement Agency).
20.	The Applicant and property owner of each parcel to be traversed by or contain any portion of the proposed pipeline shall create and record pipeline easement(s) with exhibit maps with the County of Fresno for the entire pipeline.
21.	All of the participating dairies are regulated by the Regional Water Quality Control Board, under the Dairy General Order, and are required to have a Waste Management Plan and Certificate of Waste Discharge.