



# Inter Office Memo

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DATE: February 18, 2016

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12557 – INITIAL STUDY APPLICATION NO. 7053, AND UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3518

APPLICANT/OWNER: Jess Melin/Whitney Point Solar, LLC

REQUEST: Allow modification of a photovoltaic solar power generation facility with related improvements authorized by Unclassified Conditional Use Permit No. 3295 on two parcels totaling 320 acres in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the east side of S. Lake Avenue between W. Paige and W. Jeffery Avenues approximately one mile east of Fresno-Coalinga Road (State Route 145) and 3.3 miles southwest of the unincorporated community of Five Points (SUP. DIST. 4) (APNs 060-042-16S; 060-042-17S).

## PLANNING COMMISSION ACTION:

At its hearing of February 18, 2016, the Commission considered the Staff Report and testimony (summarized in Exhibit "A").

A motion was made by Commissioner Borba and seconded by Commissioner Woolf to adopt the Mitigated Negative Declaration prepared for the project, adopt the recommended Findings in the Staff Report, and approve Unclassified Conditional Use Permit Application No. 3518, subject to the Conditions listed in the staff report with the exception of modifying Condition of Approval No. 5 to delete the portion of the condition noting the potential of road right-of-way dedication. The Conditions of Approval are listed in Exhibit "B".

This motion passed on the following vote:

- VOTING: Yes: Commissioners Borba, Woolf, Abrahamian, Chatha, Egan, Eubanks, Lawson, and Mendes
- No: None
- Absent: Commissioners Zadourian
- Recused: None

BERNARD JIMENEZ, INTERIM DIRECTOR  
 Department of Public Works and Planning  
 Secretary-Fresno County Planning Commission

By:   
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 William M. Kettler, Manager  
 Development Services Division

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- NOTES: 1. The Planning Commission action is final unless appealed to the Board of Supervisors within 15 days of the Commission's action.
2. 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.

Attachments

EXHIBIT "A"

Initial Study Application No. 7053  
Unclassified Conditional Use Permit (CUP) Application No. 3518

Staff: The Fresno County Planning Commission considered the Staff Report dated February 18, 2016, and heard a summary presentation by staff.

Applicant: The Applicant and his representatives concurred with the Staff Report and the recommended Conditions. They described the project and offered the following information to clarify the intended use:

- The subject proposal is to allow a 40-megawatt (MW) solar power generation facility on two 160-acre parcels.
- The project will make minor changes to the Site Plan approved for CUP No. 3295 by eliminating 40,000 square feet of office and management buildings, and removing a 24-acre gravel parking area.
- The project will add a Pacific Gas & Electric (PG&E) switchyard on a five-acre portion of the southerly 160-acre parcel, and will increase pole height along the gen tie-line route.
- The 20-MW facility on the northerly 160-acre parcel will connect to the Schindler-Coalinga # 2 power line via a new gen-tie line; the 20-MW facility on the southerly 160-acre parcel will connect to the existing gen tie-line along the westerly boundary of the property.
- The Initial Study prepared for the project by the County has analyzed changes between the approved project (CUP No. 3295) versus requested minor changes to accommodate PG&E's requirements for the project.
- The project will not change foraging value for Swainson's hawk; pre-construction surveys for kit fox, burrowing owl and Swainson's hawk will be conducted.
- The project will reduce greenhouse gas emissions by not using fossil fuels to generate electricity.
- PG&E maintains health standards for their transmission facilities; no residential developments are located near the proposed switchyard.
- The switchyard will remain intact even after decommissioning of the project; future solar facilities in the area may connect to that switchyard.
- PG&E would be required to do their own California Environmental Quality Act (CEQA) analysis for the switchyard if it was not done by the County as part of the subject proposal.

- Removal of the 24-acre parking lot will reduce construction traffic trips to the site and consequently air pollution in the area.
- The Air Impact Assessment (AIA) Application for the project uses appropriate significance thresholds adopted by the Air District.
- We will sell five acres of the property to PG&E, or keep the property through a perpetual lease agreement with PG&E.
- The project will use one acre-foot of water a year during washing of solar panels; water will be provided by Westlands Water District.
- The soils underneath the solar panels will be stabilized to reduce creation of wind-borne dust.
- The California Unions for Reliable Energy (CURE) has made the argument regarding the impact of valley fever on public and worker health on all solar projects.
- No member of the local community has raised concerns regarding environmental impacts associated with the project except for CURE.

Others:

No individuals presented information in support of the application. One individual representing the CURE presented information in opposition to the application, indicating that significant changes are proposed in the project that require an Environmental Impact Report (EIR) due to new and more significant impacts on air quality and biological resources, and concerns regarding the impacts caused by valley fever. Further, the CURE representative stated that the air quality impact report prepared for the project is flawed and has failed to mitigate impacts on air quality.

Correspondence:

Two letters were presented in support of the application by the Applicant. The first letter addressed CURE's concerns regarding project impacts on air quality, valley fever, and biological resources. The second letter addressed CURE's abuse of CEQA laws, failure to address the high threshold for requiring further environmental review based on changes in the project, and attempt to confuse the appropriate proper methodology for considering new information.

One letter was presented in opposition to the application by CURE indicating that the staff report failed to address the project's impact to air quality, public and employee health, and biological resources, and therefore an EIR needs to be prepared to address those impacts.

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**Mitigation Monitoring and Reporting Program**  
**Initial Study Application No. 7053/Unclassified Conditional Use Permit Application No. 3518**  
**(Including Conditions of Approval and Project Notes)**

EXHIBIT B

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
*1.	Aesthetics	All outdoor lighting shall be hooded and directed downward as to not shine toward adjacent properties and public streets.	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P)	Ongoing; for duration of project
*2.	Agriculture and Forestry Resources	The project shall adhere to the procedures listed in the Reclamation Plan prepared for the operation, including requirements for financial estimates, bonding and facility removal when operation ceases. Prior to the issuance of any construction permits, the required bond amount, based on engineer's estimate, shall be deposited (or evidence of a Bank Guarantee or Irrevocable Letter of Credit) and a Covenant shall be signed between the Property Owner and the County of Fresno to run with the land, requiring the site to be restored to an agricultural use at the cessation of operation.	Applicant	Applicant/PW&P	As noted
*3.	Agricultural and Forestry Resources	The project shall comply with the Integrated Pest Management Plan for Rodent Control and Integrated Pest Management Plan for Noxious Weed Control provided by the Applicant on October 19, 2015 in order to control weeds and rodents on the property that may impact adjacent properties.	Applicant	Applicant/Agriculture Commissioner's Office	As noted
*4.	Cultural Resources	In the event that cultural resources are unearthed during ground-disturbing activity, all work shall be halted in the area of the find, and an Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activity, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and disposition. If such remains are determined to be Native American, the Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/PW&P	As noted

\*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document.

**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.	All Conditions of Conditional Use Permit No. 3295 shall remain in full force and effect except where superseded by this application or by current Federal, State or local regulations.
3.	The life of this Land Use permit will expire upon expiration of the initial life of the solar lease or the 25 to 30 years initial life of the project described in the project decommissioning and site restoration plan. If the solar lease is to be extended or the initial life of the project extends beyond this proposal, approval of a new land use permit shall be required.
4.	The Reclamation Plan shall be revised to provide for an annual increase in costs at 3%, or tied to the Consumer Price Index (CPI), or other mechanism acceptable to the Department of Public Works and Planning.
5.	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.
6.	The proposed 30-foot-wide public road access easement from Fresno-Coalinga Road (State Route 145) to the project site shall be gravel or require dust palliative to prevent the creation of dust by vehicles during construction of the project.
7.	The project shall adhere to the setbacks shown on the Site Plan (a minimum of a 50 foot setback shall be maintained from all property lines).

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.	This Unclassified Conditional Use Permit shall become void, unless there has been substantial development within two years of the effective date of approval.
2.	<p>Plans, permits and inspections are required for all structures including but not limited to accessible elements and site development based upon the codes in effect at the time of plan check submittal if not owned, constructed and operated under the authority of the CPUC. Permits shall also be required for all proposed improvements including fences exceeding six (6) feet in height. Contact the Building and Safety Section of the Development Services Division at (559) 600-4540 for permits and inspections.</p> <p>According to Westlands Water District:</p> <ul style="list-style-type: none"> <li>The project site is within the District's service area and is entitled to receive water from the District's Municipal and Industrial (M&amp;I) supply through the District's Central Valley Project (CVP) contract subject to the Regulations and Terms and Conditions established by the District for M&amp;I use.</li> </ul>

**Notes**

- The District will make available up to 5 (five) acre-feet per 160 acres annually for construction and operation of proposed solar facility via current delivery points located one on each 160-acre parcel.
- The Applicant shall request and receive an exemption from the Compliance Agreement between the District and the State Water Resources Control Board (SWRCB), Department of Drinking Water, that restricts the District's ability to provide Municipal and Industrial (M&I) service to non-resident facilities.
- If an exemption is granted by SWRCB, Department of Drinking Water, signs shall be posted at all outlets where human contact may occur indicating that the water delivered by the District is non-potable.
- The Applicant shall provide bottled water and/or potable water for consumption at the project site with documentation provided to the District.
- The Applicant must comply with the District's Backflow Prevention regulations for water system connections.

4. According to the Fresno County Department of Public Health, Environmental Health Division:

- Facilities proposing to use and/or store hazardous materials and/or hazardous wastes shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5. Any business that handles a hazardous material or hazardous waste may be required to submit a Hazardous Materials Business Plan pursuant to the HSC, Division 20, Chapter 6.95.
- All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5.
- In an effort to protect groundwater, all water wells (not intended for use by the project or for future use) and septic systems that have been abandoned within the project area shall be properly destroyed by an appropriately-licensed contractor.
- For water wells located in the unincorporated area of Fresno County, permits for destruction and construction shall be obtained from the Health Department prior to commencement of work.

5. According to the Development Engineering Section of the Fresno County Department of Public Works and Planning:

- Any additional runoff generated by the proposed development of the site cannot be drained across property lines and must be retained or disposed of per County Standards.
- An Engineered Grading and Drainage Plan may be required to show how additional water runoff generated by the proposed improvements will be handled without adversely impacting adjacent properties.
- A Grading Permit or Voucher shall be required for any grading proposed with this application.
- According to United States Geological Survey (USGS) Quad Maps, there are no existing natural drainage channels adjacent or running through the parcel.

6. According to the San Joaquin Valley Unified Air Pollution Control District (Air District), the project shall be subject to District Regulation VIII (Fugitive Dust Rules); to address impacts related to PM-10, Rule 4102 (Nuisance); Rule 4601 (Architectural Coatings); and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt Paving and Maintenance Operations).

**Notes**

7. The proposal shall comply with California Code of Regulations Title 24 - Fire Code after County approval of the project and prior to issuance of any Building Permits. The Applicant shall submit three Site Plans stamped "reviewed" or "approved" from the Fresno County Department of Public Works and Planning to the Fresno County Fire Protection District for review and approval. The Applicant shall submit evidence that their Plans were approved by the Fresno County Fire Protection District, and all fire protection improvements shall be installed prior to occupancy being granted for the use.

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