



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER, DIRECTOR

Planning Commission Staff Report Consent Agenda Item No. 2 October 8, 2015

SUBJECT: Initial Study No. 6279 and Unclassified Conditional Use Permit No. 3297 – Time Extension

Grant a first one-year time extension to exercise Unclassified Conditional Use Permit No. 3297 which authorized a photovoltaic solar power generation facility with related improvements including 50-foot-high electrical utility poles, twenty 300 square-foot inverter buildings, an 8,850 square-foot substation and eight-foot-high chain-link fencing on an approximately 120.07-acre portion of a 155.85-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located one half-mile to the west of N. Russell Avenue between W. Nees and W. Althea Avenues and approximately 12 miles west of the City of Firebaugh (SUP. DIST. 1) (APNs 005-040-17S, 005-040-12S, 005-040-15S).

OWNER: Aric, Aaron, Stacey and Jennifer Barcellos
APPLICANT: CED Oro Loma Solar, LLC
REPRESENTATIVE: Provost & Pritchard Consulting Group

STAFF CONTACT: Ejaz Ahmad, Planner
(559) 600-4204

Eric VonBerg, Senior Planner
(559) 600-4569

RECOMMENDATION:

- Approve a first one-year time extension for Unclassified Conditional Use Permit No. 3297; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Location Map
2. Existing Land Use Map
3. Existing Zoning Map
4. Planning Commission Resolution and Staff Report dated November 17, 2011
5. Applicant's letter requesting a first one-year time extension

ENVIRONMENTAL DETERMINATION:

A Mitigated Negative Declaration prepared for Initial Study Application No. 6279 was approved by the Planning Commission in accordance with the California Environmental Quality Act (CEQA) with approval of Unclassified Conditional Use Permit Application No. 3297 on November 17, 2011.

Section 15162(b) of the CEQA Guidelines states that once a Mitigated Negative Declaration has been adopted for a project, no subsequent Environmental Impact Report (EIR) or Mitigated Negative Declaration shall be prepared unless: 1) substantial changes are proposed to the project; 2) substantial changes occur with respect to the circumstances under which the project is undertaken; or 3) new information of substantial importance is presented which was not known and could not have been known at the time the previous Mitigated Negative Declaration was adopted. This time extension request does not propose changes to the approved project, nor is there evidence of the circumstances noted in conditions 1, 2 or 3 above. Therefore, a subsequent/supplemental environmental document is not required. A letter was received by the California Department of Fish and Wildlife (DFW) identifying additional species and protocol to follow, but it was determined that the information provided is not new information and did not fit any of the three criteria listed above.

PUBLIC NOTICE:

Notices were sent to thirteen (13) property owners within 1,320 feet of the subject property, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

The Fresno County Zoning Ordinance requires that a Conditional Use Permit shall become void when substantial development has not occurred within two years after approval of the permit. Zoning Ordinance Section 873-I.3 authorizes the Planning Commission to grant a maximum of two (2) one (1)-year time extensions when it can be demonstrated that circumstances beyond the control of the Applicant cause delays which do not permit compliance with the time limitation established in Section 873-I.1. However, this time limit has been extended due to a recent Zoning Ordinance Text Amendment (Ordinance No. T-087-366) approved by the County Board of Supervisors on December 6, 2011. Effective January 5, 2012, the Ordinance allows the Planning Commission to grant two additional one-year extensions in addition to the extensions currently allowed in Section 873-I.3 provided that the request for extension is filed prior to the expiration of the permit for a possible total of four (4) extensions.

BACKGROUND INFORMATION:

Unclassified Conditional Use Permit (CUP) Application No. 3297 was approved by the Fresno County Planning Commission on November 17, 2011 with that decision appealed by Fresno County Citizens for Responsible Solar, represented by the law offices of Adams Broadwell Joseph and Cardozo on December 1, 2011. At the Fresno County Board of Supervisors' January 24, 2012 hearing, the appeal was continued to a date uncertain to allow the Appellant and Applicant (SolarReserve) the opportunity to resolve concerns and come to a possible resolution that would allow the withdrawal of the appeal.

Negotiations between the Appellant and Applicant resulted in a withdrawal of the appeal by Fresno County Citizens for Responsible Solar on August 28, 2013. As 19 months elapsed between the time of the Board appeal hearing and the withdrawal of the appeal, County staff has determined the effective approval date for the land use application to be August 28, 2013. As conditional use permits are given two years of initial life, the project must either be constructed, a time extension granted, or a determination of substantial development made prior to the project expiration date of August 28, 2015 to insure the project remains active.

This first one-year time extension was filed by the Applicant on August 10, 2015. If this time extension is granted, the Applicant will have an additional year (until August 28, 2016) to achieve substantial development of the subject photovoltaic solar power generation facility.

ANALYSIS/DISCUSSION:

Unclassified Conditional Use Permit (CUP) Application No. 3297 was originally approved on November 17, 2011 concurrently with Initial Study Application No. 6279 based on a determination that the required findings could be made. Attached is a copy of the Planning Commission's Resolution and Staff Report (Exhibit 4) documenting Conditions imposed on the project.

It should be noted that the Planning Commission's jurisdiction in evaluating this request is limited to determining whether or not the Applicant should be granted an additional one year to exercise the CUP as originally approved. In a letter submitted by the Applicant's representative, the primary justification for requesting extension of the CUP approval is to allow additional time to facilitate construction of the project as well as to provide power to Pacific Gas and Electric Company (PG&E) pursuant to specific deadlines (Exhibit 5). The current CUP approval expires on August 28, 2015. The subject time extension will allow the Applicant additional time until August 28, 2016 to complete the project.

The current time extension was routed to the same agencies that reviewed this project in June 2010. None of those agencies identified any change in circumstances or the need for additional conditions. The California Department of Fish and Wildlife (DFW) has identified additional species and protocols to follow to avoid impacts on those species in a letter dated August 14, 2015. However, the information presented in the letter is not new information as defined by Section 15162(b) of the CEQA Guidelines that could not have been known to the agency at the time comments were provided for the original application. DFW comments have been provided to the Applicant.

PUBLIC COMMENT:

None

CONCLUSION:

Staff believes the first one-year time extension for Unclassified Conditional Use Permit No. 3297 should be approved, based on factors cited in the analysis above. Approval of this time extension will extend the expiration date to August 28, 2016.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to approve the first one-year time extension for Unclassified Conditional Use Permit No. 3297; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Denial Action)

- Move to deny the first one-year time extension request for Unclassified Conditional Use Permit No. 3297 (state reasons for denial); and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EJ:ksn

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EXHIBIT 1

LOCATION MAP

CUP 3297

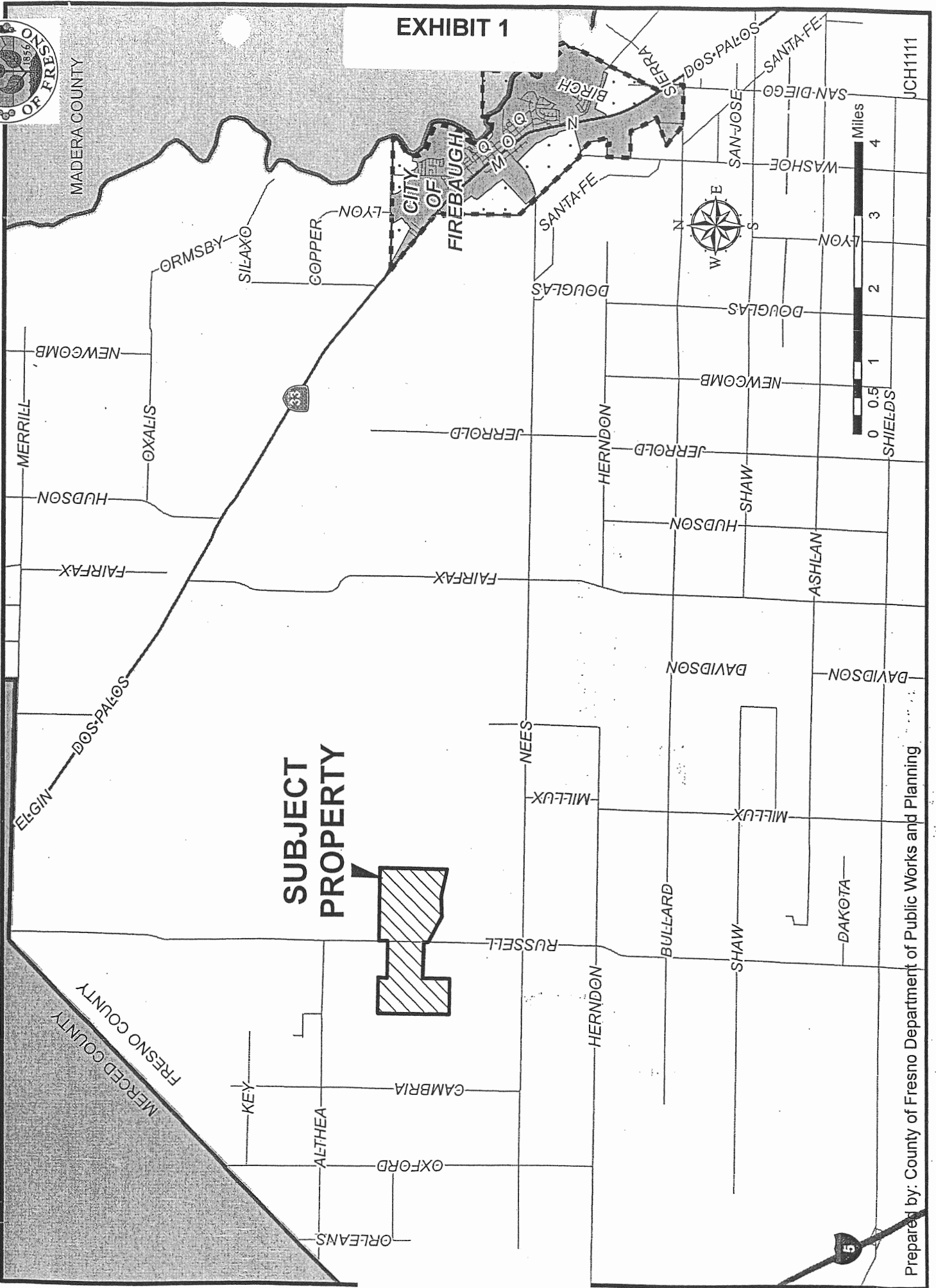




EXHIBIT 2

EXISTING LAND USE MAP

CUP 3297

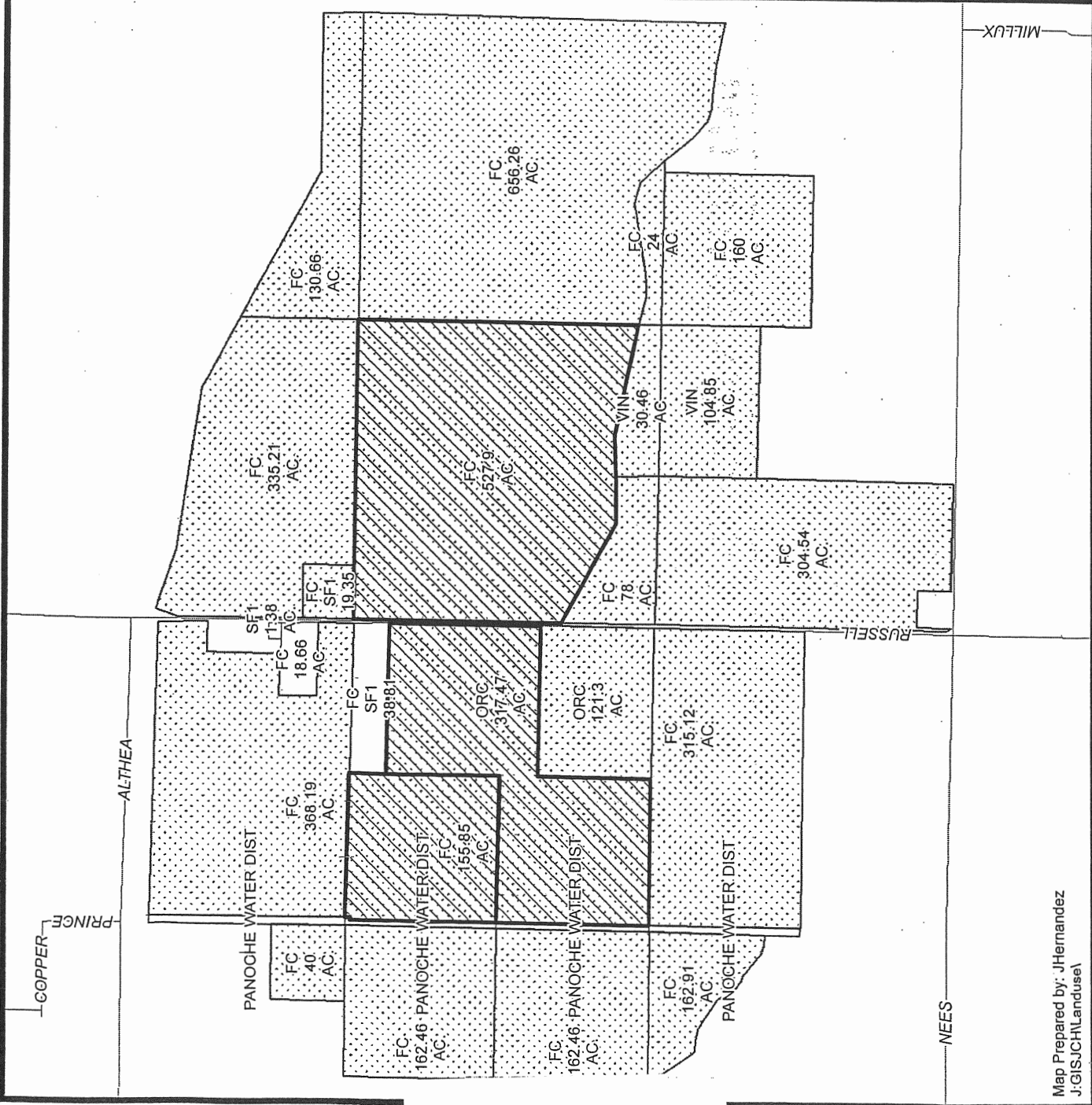
LEGEND	
FC - FIELD CROP	
ORC - ORCHARD	
SF#- SINGLE FAMILY RESIDENCE	
V - VACANT	
VIN - VINEYARD	

LEGEND:

-  Subject Property
-  Ag Contract Land



Department of Public Works and Planning
Development Services Division

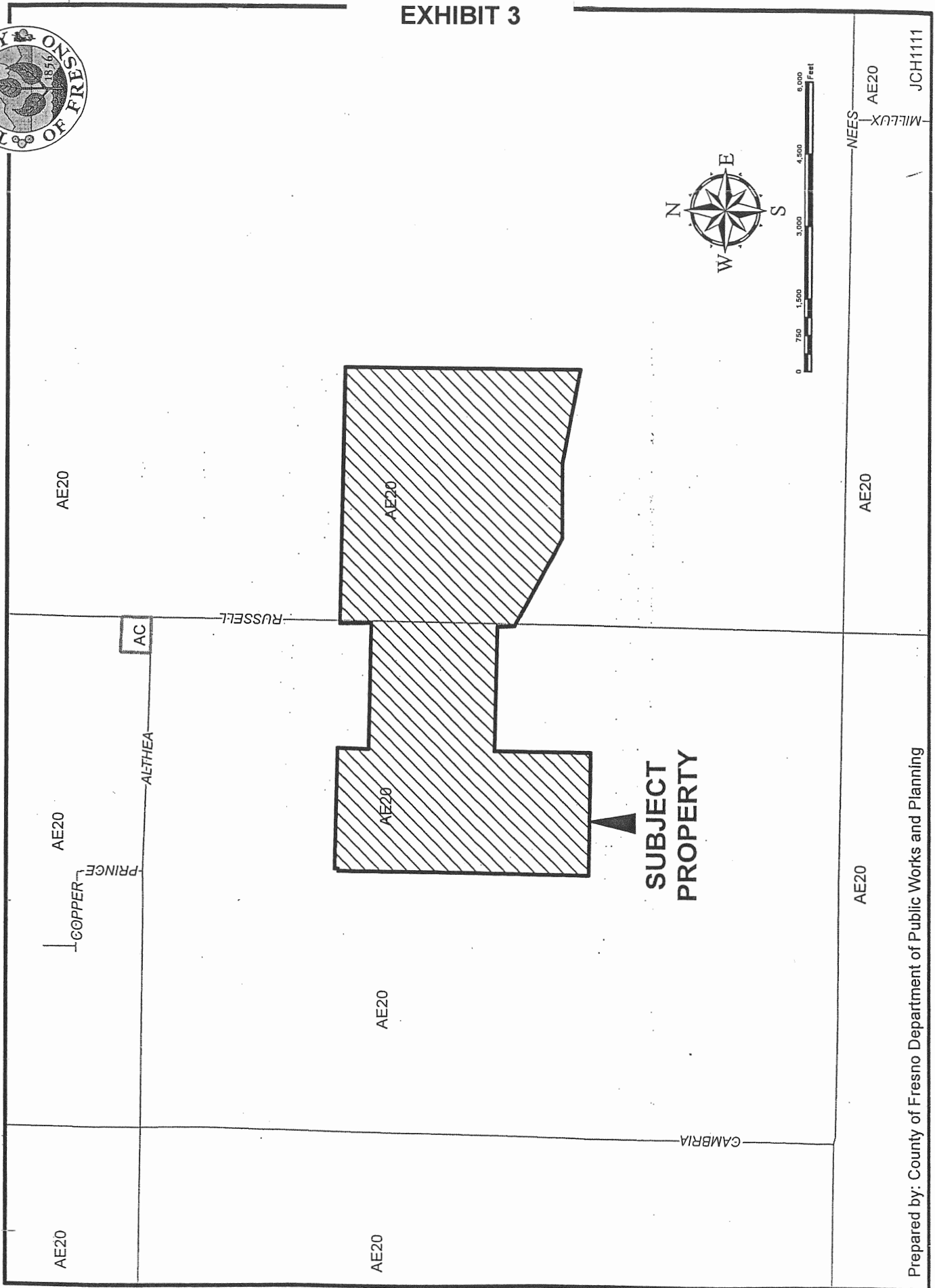


Map Prepared by: JHernandez
J.GISJCH(Landuse)

EXISTING ZONING MAP



EXHIBIT 3



NEES
MILUX
AE20

AE20

AE20



EXHIBIT 4

Inter Office Memo

DATE: November 17, 2011

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12271 - INITIAL STUDY APPLICATION NO. 6279
AND UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION
NO. 3297

APPLICANT: Sr Solis Oro Loma, LLC

OWNER: Aric Barcellos; Aaron and Jennifer Barcellos
Trustees

REQUEST: Allow a photovoltaic solar power generation facility with related improvements including 50-foot high electrical utility poles, 300 square-foot inverter buildings, a 8,850 square-foot substation and an eight-foot high chain-link fencing on an approximately 120.07-acre portion of a 155.85-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located one-half mile to the west of N. Russell Avenue between W. Nees and W. Althea Avenues and approximately 12 miles west of the City of Firebaugh in Fresno County (SUP. DIST.: 1) (APNos.: 005-040-17S, 005-040-12S, 005-040-15S).

PLANNING COMMISSION ACTION:

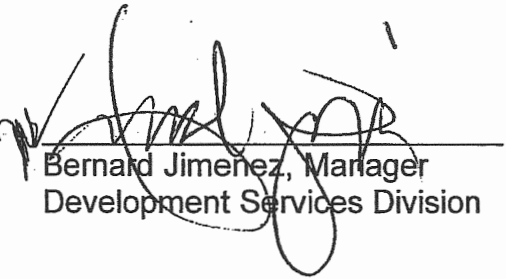
At its hearing of November 17, 2011, the Commission considered the Staff Report and testimony (summarized in Exhibit "A").

A motion was made by Commissioner Rocca and seconded by Commissioner Ferguson to adopt the Mitigated Negative Declaration prepared for the project; adopt the recommended findings of fact in the Staff Report; and approve Unclassified Conditional Use Permit Application No. 3297, subject to conditions as listed in Exhibit "B" including additional Conditions voluntary offered by the Applicant at the Hearing:

This motion passed on the following vote:

VOTING:	Yes:	Commissioners Rocca, Ferguson, Borba, Goodman, Mendes, Niswander
	No:	Commissioner Yates
	Absent:	Commissioner Batth
	Abstain:	None

ALAN WEAVER, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By: 
Bernard Jimenez, Manager
Development Services Division

EJ:cwm
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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 Conditional Use Permit.

Attachments

EXHIBIT "A"

Initial Study Application No. 6279
Unclassified Conditional Use Permit Application No. 3297

- Staff: The Fresno County Planning Commission considered the Staff Report dated November 17, 2011, and heard a summary presentation by staff.
- Applicant: The applicant and property owner concurred with the Staff Report and the recommended conditions. They described the project and offered the following information to clarify the intended use:
- We request that the Planning Commission accept additional conditions to address potential concerns raised regarding potential on-site species.
 - We do not have on-site hazardous materials.
 - At this time we anticipate solar panels for this project to be manufactured in the United States.
 - We have signed lease agreements with the property owners requiring us to reclaim the site to its previous agricultural state after project operations cease; the entire project materials will be recycled.
 - We have consulted and discussed our proposal with a number of agencies, departments and concerned organizations.
 - The project will create approximately one hundred and twenty permanent jobs in Fresno County.
 - Approximately ninety-percent of the electricity produced by the project will be used on the County's west side for agricultural purposes.
 - We are a solar developer, designer, builder and operator who will be partnering with the property owner for thirty-five years on this project site.
 - Approximately five Swainson's Hawk nests were discovered within five miles of the project area; we propose utilizing agricultural easements elsewhere in the area on properties also

owned by the project site's property owner to provide for replacement area to address potential loss of hawk habitat.

Others:

Five individuals presented information in support of the application. Speakers in favor indicated their support and emphasized that the property can be put back into farming operations, water saved on the property can be used on other farming operations owned by the property owner in the area, and that the project will provide construction and maintenance jobs to local people. One individual representing a concerned environmental group indicated they were comfortable with the project if the additional applicant-offered conditions are included in the approval action with some modification for permanent habitat easements and staff's creation of a mitigation monitoring program.

One individual representing a special-interest organization expressed concern with the project's environmental document indicating that the document is inadequate in not addressing all possible biological impacts and that an Environmental Impact Report (EIR) which evaluates other proposed utility-grade solar projects in the vicinity be prepared.

Correspondence:

No letters were presented to the Planning Commission in support of the project. One letter was presented in opposition to the project which indicated that the project environmental document is inadequate, does not address all biological impacts, shall be revised and shall be re-routed to include the preparation of an EIR. A second letter from the California Department of Fish and Game was presented outlining additional mitigation that should be considered for the project.

EXHIBIT "B"

Conditions of Approval

Initial Study Application No. 6279
Unclassified Conditional Use Permit Application No. 3297

1. Development of the property shall be in accordance with the Site Plan, Floor Plans, Elevations, and Operational Statement approved by the Commission.
2. A Site Plan Review (SPR) Application shall be submitted for approval by the Director of the Department of Public Works and Planning, in accordance with Section 874 of the Fresno County Zoning Ordinance. The SPR shall be applicable to those portions of the project site(s) to be improved with substations, inverters, perimeter access road, parking, and driveway access, excluding the solar panel fields. Items to be addressed under the SPR may include, but are not limited to, design of parking and circulation, driveway, access, grading and drainage, fire protection, and lighting.
3. The project shall adhere to the setbacks shown on the Site Plan (41feet to 88 feet along the northern property line, 610 feet to 646 feet along the southern property line, 49 feet to 69 feet along the eastern property line and 60 feet to 82 feet along the western property line).
4. The project shall comply with the "Response to Solar Electrical Generation Facility Guidelines" dated March 2, 2011"attached as Exhibit 7 to the Staff Report and as approved and/or modified by the Commission.
5. As part of the Site Plan Review submittal process, an agreement incorporating the provisions of the "Right-to-Farm" Notice (Ordinance Code Section 17.40.100) shall be entered into with Fresno County acknowledging the presence of surrounding agricultural operations and their related activities.
- *6. All lighting shall be hooded and directed so as not to shine towards adjacent properties and public streets or roadways.
- *7. The project shall adhere to the procedures listed in the "Response to Solar Electrical Generation Facility Guidelines" dated March 2, 2011 prepared for the operation including requirements for preliminary financial estimates, bonding and facility removal when operations cease. Prior to the issuance of any 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 Applicant/ property owner and the County of Fresno and shall run with the land requiring the site to be restored to agricultural uses at the cessation of photovoltaic solar facility operation. The required bond amount

shall be revised and based upon a final cost estimate for reclamation that will include full cost estimates for removal of solar panel fields.

- *8. Prior to the issuance of any permits, a Pest Management Plan shall be submitted to the Department of Public Works and Planning and approved by the Fresno County Agricultural Commissioner's Office. The Pest Management Plan shall identify methods and frequency to manage weeds, insects, and disease and vertebrate pests that may impact adjacent properties.
- *9. The project operator shall utilize pest control professionals to keep the project site free of rodents at all times.
- *10. The project operator shall at all times keep the project site free of weeds and other vegetation that could harbor pests or become a fire hazard.
- *11. To mitigate potential impacts to on-site foraging and nesting Swainson's Hawk (Hawk), the Applicant shall have a qualified Ornithologist survey the site during Hawk nesting season prior to project construction in accordance with the "Swainson's Hawk Technical Advisory Committee's Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys" dated 2000. In addition to pre-construction nesting surveys the Applicant shall:
 - a. Adhere to the ½-mile buffer around active nests during the nesting season which prohibit project-related construction within the buffer of active nests, should they be found.
 - b. Work closely with the California Department of Fish and Game (CDFG) including insuring that the qualified individual retained to conduct survey work contact CDFG prior to and upon completion of the surveys to insure the most current surveying procedures are implemented and that the need for an Incidental Take Permit is discussed with that agency.
 - c. Proof that adequate survey work was completed in consultation with CDFG shall be provided to the County of Fresno's Department of Public Works and Planning.
- *12. In the event that cultural resources are unearthed during grading 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 construction, 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.
- 13. To mitigate potential impacts to/loss of on-site foraging area for Swainson's Hawk (Hawk) pursuant to the HT Harvey survey measures, the applicant shall implement off-site retention of agricultural land suitable for foraging habitat through a methodology described in the "Proposed Strategy For Mitigating

Impacts To Swainson's Hawks – Oro Loma and Oro Loma Teresina Projects
including the following Strategy clarifications and modifications:

- a. A guarantee of the production of acres based on a ratio of 0.75:1 acres of suitable foraging habitat by leasing and maintaining agricultural lands operated by ABAR/Barcellos Ranch under agreement with the landowner for the production of crops providing suitable foraging habitat for Swainson's Hawks in the region as confirmed by CDFG shall be provided for review and approval to CDFG with copy of documentation (property acquisition, conservation easement or long term lease agreement) to the Fresno County Department of Public Works & Planning.
 - b. Documentation confirming an annual production of a minimum number of acres of prime Swainson's Hawk foraging habitat based on said ratio shall be documented in the annual pest management reports by the farm operator, with information collected by a qualified third party monitor or biological consultant with the annual reporting provided directly to CDFG with copy to the Fresno County Department of Public Works & Planning.
 - c. The above Swainson's Hawk mitigation shall remain in place until such time that the 120.07-acre project site associated with Unclassified Conditional Use Permit No. 3297 is converted back to active agricultural land.
14. Prior to and during any ground-disturbing activities occurring within the project area, the applicant shall implement the following measures as recommended by United States Fish and Wildlife Service (USFWS) construction protocols for the protection of the San Joaquin Kit Fox:
- a. Project-related vehicles will observe a 20-mile-per-hour speed limit in all project areas, except on county roads and state and federal highways; this is particularly important at night, when San Joaquin kit foxes are most active. To the greatest extent practicable, nighttime construction will be minimized. Off-road traffic outside of designated project areas will be prohibited.
 - b. To prevent inadvertent entrapment of San Joaquin kit foxes during the construction phase of the project, all excavated, steep-walled holes or trenches more than 2 feet deep will be covered at the close of each working day by plywood or similar materials or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals. If at any time a trapped or injured San Joaquin kit fox is discovered, the procedures under numbers h, k, l and m of this section will be followed.
 - c. San Joaquin 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 four inches or greater that are stored at the construction site for one or more overnight periods will be thoroughly inspected for San Joaquin kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a San Joaquin kit fox is discovered inside a pipe, then that section of pipe will not be moved until the USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved once to remove it from the path of construction activity until the fox has escaped.

- d. All food-related trash items such as wrappers, cans, bottles, and food scraps will be disposed of in closed containers and removed at least once a week from the construction site.
- e. No firearms will be allowed on the site, except for onsite security purposes.
- f. To prevent harassment or mortality of San Joaquin kit foxes or destruction of dens by dogs or cats, no pets will be permitted on the site.
- g. The use of rodenticides and herbicides in the project area will be minimized to meet Fresno County's pest control objectives within an actively farmed landscape. All uses of such compounds will 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.
- h. The applicant will appoint a representative who will be the contact source for any employee or contractor who might inadvertently kill or injure a San Joaquin kit fox or who finds a dead, injured, or entrapped individual. This representative will be identified during the employee education program. The representative's name and telephone number will be provided to the USFWS.
- i. An employee education program will be conducted for the project. The program will consist of a brief presentation by persons knowledgeable in San Joaquin kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and agency personnel involved in the project. The program will include the following: a description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of San Joaquin kit fox in the project area; an explanation of the status of the species and its protection under the ESA; and a list of measures being taken to reduce impacts on the species during construction and implementation. A fact sheet conveying this information will be prepared for distribution to the above-mentioned people and anyone else who may enter the site.

- j. Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, electrical collection corridors, etc., will be re-contoured, if necessary, and the site will be kept mowed and weed free in accordance with the Pest Management Plan required by Fresno County.
 - k. In the case of trapped animals, escape ramps or structures will be installed immediately to allow the animal(s) to escape, or the USFWS will be contacted for advice.
 - l. Any contractor, employee, or agency personnel who inadvertently kills or injures a San Joaquin kit fox will immediately report the incident to their representative. This representative will contact the CDFG immediately in the case of a dead, injured, or entrapped San Joaquin kit fox. The CDFG contact for immediate assistance is State Dispatch at (916) 445-0045. They will contact the local warden or biologist.
 - m. The Sacramento Fish and Wildlife Office and CDFG will be notified in writing within three working days of the accidental death of or injury to a San Joaquin 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 (916) 414-6630. The CDFG contact is Mr. Craig Bailey at 1234 E. Shaw Avenue, Fresno, California 93710, at (559) 243-4014.
 - n. To enable kit foxes and other wildlife to pass through the project site after construction, the security fence shall be raised five to seven inches above the ground. The bottom of the fence fabric shall be knuckled (wrapped back to form a smooth edge) to protect wildlife that passes under the fence.
 - o. A pre-construction survey of the project site shall be conducted by a qualified biologist to locate and identify potential dens, known dens and natal dens, and avoid or treat such dens in accordance with the "USFWS Standardized Recommendations for the Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance"
15. To avoid impacts on western burrowing owl, the following guidelines, adapted from the CDFG Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game 1995), will be implemented:
- a. A qualified wildlife biologist (i.e., a wildlife biologist with previous burrowing owl survey experience) will conduct a preconstruction survey to locate any breeding or wintering burrowing owls no more than 30 days prior to the start of construction.

- b. If no burrowing owls are detected, no further mitigation is necessary. If burrowing owls are detected, no ground-disturbing activities, such as road construction or installation of photovoltaic panels or ancillary facilities, will be permitted within 250 feet of an active burrow during the breeding season (February 1–August 31) unless otherwise authorized by CDFG. Occupied burrows should not be disturbed during the nesting season unless a qualified biologist approved by CDFG verifies through noninvasive methods that either (1) the birds have not begun egg-laying and incubation, or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.
- c. During the nonbreeding (winter) season (September 1–January 31), ground-disturbing work can proceed near active burrows as long as the work occurs no closer than 160 feet from the burrow and the site is not directly affected by the project activity. If active winter burrows are found that would be directly affected by ground-disturbing activities, owls can be displaced from winter burrows. A qualified wildlife biologist will install one-way doors at the entrance to the active burrow and other potentially active burrows within 150 feet of the active burrow. Forty-eight hours after the installation of the one-way doors, the doors can be removed, and ground-disturbing activities can proceed.

16. To avoid potential impacts to migratory birds, the applicant shall:

- a. To the extent practicable, schedule construction to avoid the January through August nesting season.
- b. If it is not possible to schedule construction between August and January, pre-construction surveys for nesting birds shall be conducted by a qualified biologist to ensure that no nests will be disturbed during Project implementation. A pre-construction survey shall be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (January through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the qualified person shall inspect all potential nest substrates in and immediately adjacent to the impact areas for nests. If an active nest is found close enough to the construction area to be disturbed by these activities, the biologist, in consultation with CDFG, shall determine the extent of a construction-free buffer to be established around the nest.

17. Habitat compensation shall be required if burrowing owls are found to be present on the project site.

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

change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

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County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER
DIRECTOR

Planning Commission Staff Report Agenda Item No. 2 November 17, 2011

SUBJECT: Initial Study Application No. 6279
Unclassified Conditional Use Permit Application No. 3297

Allow a photovoltaic solar power generation facility with related improvements including 50-foot high electrical utility poles, 300 square-foot inverter buildings, a 8,850 square-foot substation and an eight-foot high chain-link fencing on an approximately 120.07-acre portion of a 155.85-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located one-half mile to the west of N. Russell Avenue between W. Nees and W. Althea Avenues and approximately 12 miles west of the City of Firebaugh in Fresno County (SUP. DIST.: 1) (APNos.: 005-040-17S, 005-040-12S, 005-040-15S).

Representative: Provost & Pritchard Consulting Group
Applicant: Sr Solis Oro Loma, LLC
Owner: Aric Barcellos; Aaron and Jennifer Barcellos Trustees

STAFF CONTACT: Ejaz Ahmad, Planner
(559) 600-4205

Chris Motta, Senior Planner
(559) 600-4227

RECOMMENDATION:

- Adopt the Mitigated Negative Declaration prepared for Initial Study (IS) Application No. 6279; and
- Approve Unclassified Conditional Use Permit (CUP) Application No. 3297 with recommended Findings and Conditions; and

- Direct the Secretary to prepare a Resolution documenting the Commission's action.

IMPACTS ON JOB CREATION:

The Commission's action will not have any substantial effect on job creation.

EXHIBITS:

1. Location Map
2. Existing Zoning Map
3. Existing Land Use Map
4. Site Plans
5. Floor Plans/Elevations/Details
6. Applicant's Submitted Operational Statement
7. Information in Response to Solar Facilities Guidelines
8. Summary of Initial Study Application No. 6279
9. Required Findings Necessary for the Granting of a Conditional Use Permit Application as Specified in Zoning Ordinance Section 873
10. Public Correspondence
11. Applicant-Offered Additional Conditions

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agriculture	N/A
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)	N/A
Parcel Size	155.85 acres	N/A
Project Site	Farmland	A photovoltaic (PV) solar power generation facility with supportive appurtenance structures
Structural Improvements	None	100,000 PV modules; forty-two 50-foot high electrical

Criteria	Existing	Proposed
		utility poles, twenty 300 square-foot inverter buildings, a 8,850 square-foot substation and an eight-foot high chain-link fence
Nearest Residence	2,173 feet to the east	No change
Surrounding Development	Farmland to the north, south, east and west of the project site	No change
Operational Features	N/A	See above "Project Site"
Employees	N/A	Nine - dedicated to maintenance of the facility and panel cleaning
Customers	N/A	None
Traffic Trips	N/A	264 one-way trips per year – includes eight trips per day during 20 days of panel washing per year and two trips per week for security and maintenance of the facility 153 construction vehicle trips per day during the eight months of construction
Lighting	N/A	Motion activated security lighting
Hours of Operation	N/A	24 hours a day, seven days a week, 365 days a year; electricity generated during daylight hours only

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

ENVIRONMENTAL ANALYSIS:

An IS was prepared for the project by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on the IS, staff has determined that a Mitigated Negative Declaration is appropriate. A summary of the Initial Study is below and included as Exhibit 8.

Notice of Intent of Negative Declaration publication date: October 21, 2011.

PUBLIC NOTICE:

Notices were sent to eleven property owners within 300 feet of the subject property satisfying the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

A CUP Application may be approved only if four Findings specified in Zoning Ordinance Section 873-F are made by the Planning Commission (Exhibit 9).

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

ANALYSIS / DISCUSSION:

Finding 1: Adequacy of the Site

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	Front (east property line): 49.2 feet minimum Side (north property line): 41.1 feet minimum Side (south property line): 610.8 feet minimum Rear (west property line): 60 feet minimum	Yes
Parking	N/A	Three	Yes
Lot Coverage	No requirement	No requirement	N/A
Separation Between Buildings	Six-foot minimum	N/A	N/A
Wall Requirements	No requirement	No requirement	N/A
Septic Replacement Area	100 percent	None required	N/A
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	None required	N/A

Reviewing Agency/Department Comments regarding Site Adequacy:

Zoning Section of the Development Services Division: The proposed improvements meet the setback requirements of the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

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

Analysis:

Staff review of the Site Plan demonstrates that the proposed improvements exceed the minimum building setback requirements of the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The proposed development will set back approximately 49.2 feet from the eastern property line (35 feet required), 41.1 feet from the northern property line (20 feet required), 610.8 feet from the southern property line (20 feet required) and 60 feet from the western property line (20 feet required). The surrounding properties are active farmland with no single-family residences.

Based on the above information, staff believes the site is adequate in size and shape to accommodate the proposed use, vehicle circulation, and ingress/egress.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 1 can be made.

Finding 2: *Adequacy of Streets and Highways*

		Existing Conditions	Proposed Operation
Private Road	Yes	30-foot wide access easement via private property from Russell Avenue	N/A
Public Road Frontage	No	N/A	N/A
Direct Access to Public Road	No	N/A	Access to project site from Russell Avenue via a 30-foot wide access easement through private property
Road ADT		N/A	N/A
Road Classification		N/A	N/A
Road Width		N/A	N/A

		Existing Conditions	Proposed Operation
Road Surface		N/A	N/A
Traffic Trips		N/A	264 one-way trips per year – includes eight trips per day during 20 days of panel washing per year and two trips per week for security and maintenance of the facility 153 construction vehicle trips per day during the eight non-continuous months of construction
Traffic Impact Study (TIS) Prepared	No	Insignificant increase	Not required by County Design Division
Road Improvements Required		N/A	N/A

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

Design Division: No concern with the proposal related to vehicular traffic; preparation of a TIS was not required.

Road Maintenance and Operations Division: Any improvement to provide access to County-maintained roads such as Russell Avenue from the parcel will require a plan and approval to coincide with issuance of an Encroachment Permit. The Russell Avenue Bridge is slated for replacement and will be closed for extended lengths of time. The Applicant shall contact the Design Division and coordinate their construction schedule with the anticipated construction for replacement of the structure on Russell Avenue. These requirements have been included as project Notes.

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

Analysis:

Staff notes that vehicular traffic in the area will be increased during the time of construction, but this increase will be temporary. During the eight non-continuous months of construction, the project will generate up to 153 traffic trips per day. After construction, up to eight trips per day during 20 days of panel washing per year and two trips per week for security and maintenance of the facility is anticipated on a regular basis. No concerns regarding the project's impact on County roadways were expressed by the County Design Division.

Based on the above information and with adherence to the project Notes regarding mandatory requirements, staff believes that Russell Avenue, which provides indirect access to the site, will

remain adequate to accommodate the proposed use.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 2 can be made.

Finding 3: *Adverse Effects Upon Surrounding Properties*

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North	368 acres	Farmland	AE-20	2,806 feet to the northeast
South	161 acres	Farmland	AE-20	None
East	38 acres 156 acres	Farmland	AE-20	2,173 feet to the east
West	162 acres	Farmland	AE-20	None

Reviewing Agency/Department Comments:

California Department of Fish and Game: Prior to construction of the facility, a Swainson's Hawk Nesting Survey shall be conducted and adequate buffer around active nests during the bird nesting period shall be provided. This has been included as a Mitigation Measure.

Fresno County Agricultural Commissioner's Office (Ag Commissioner): An agreement incorporating the provisions of the "Right-to-Farm" Notice (Ordinance Code Section 17.40.100) shall also be entered into with Fresno County. This has been included as a Condition of Approval.

Project development should include a plan to control weeds and rodents within the project area to prevent the site from becoming a nuisance to neighboring properties or surrounding agricultural operations. Any weed or rodent infestation that is of a nature and magnitude as to constitute a "public nuisance" (Section 5551 of the California Food and Agricultural Code; Sections 3479 and 3480 of the Civil Code; and Section 372 of the Penal Code) and is not addressed by the property owner/operator is unlawful under California Food and Agricultural Code Section 5553 and Penal Code Section 372.

Development Engineering Section of the Development Services Division: Any additional storm water run-off generated by the project cannot be drained across property lines and must be retained on-site per the County Standards. An Engineered Grading and Drainage Plan is required to show how additional storm water run-off generated by the proposed development will be handled without adversely impacting adjacent properties. A Grading Permit or Voucher is required for any grading proposed with this application.

Road Maintenance and Operations Division: Any improvement to provide access to County-maintained roads such as Russell Avenue from the parcel will require a plan and approval to coincide with issuance of an Encroachment Permit. The Russell Avenue Bridge is slated for replacement and will be closed for extended lengths of time. The Applicant shall contact the Design Division and coordinate their construction schedule with the anticipated construction for replacement of the structure on Russell Avenue.

Fresno County Department of Public Health, Environmental Health Division (Health Department): Prior to occupancy, the Applicant shall complete and submit either a Hazardous Materials Business Plan or a Business Plan Exemption form to the Fresno County Department of Public Health, Environmental Health Division. All hazardous waste shall be handled in accordance with requirements set forth in the California Health and Safety Code, Chapter 6.5. A Permit to Construct Water Well shall be obtained for any well to be drilled on the property. Should any underground storage tank(s) be found during the project, the Applicant shall obtain an Underground Storage Tank Removal Permit.

San Joaquin Valley Air Pollution Control District (Air District): The project is subject to District Rule 9510 (Indirect Source Review). An Air Impact Assessment (AIA) Application shall be submitted for the project no later than applying for the final discretionary approval (the Applicant filed an AIA Application with the District on July 27, 2011) and shall pay applicable Off-Site Mitigation Fees before issuance of the first Building Permit. The project is also subject to District Regulation VIII – Fugitive Dust Rules, to address impacts related to PM-10, Rule 4102 (Nuisance), to address any source operation that emits air contaminants or other materials, Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow, Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

Site Plan Review Section of the Development Services Division: One parking space shall be provided for every two employees and the first space will need to be for the disabled. An asphalt concrete driveway approach 24 to 35 feet in width shall be provided where the access road ties into the public road serving the site. The driveway shall be concrete or asphalt concrete paved a minimum width of 24 feet for the first 100 feet off of the edge of the road right-of-way. Dust palliative shall be required on all unpaved parking and circulation areas.

Building Permit and Safety Section of the Development Services Division: Construction Plans shall be submitted and Building Permits shall be obtained for all improvements on the project site. Construction Plans must be prepared by a licensed Design professional.

Zoning Section of the Development Services Division: Building Permits are required for fences more than six feet in height.

The aforementioned requirements have been included as project Notes.

Water/Geology/Natural Resources Section of the Development Services Division: No water quantity related concerns in regard to the proposal.

U.S. Fish and Wildlife: The project will have no effects on federally threatened or endangered species.

Pacific Gas and Electric Company (PG & E), California Public Utility Commission, Regional Water Quality Control Board: No concerns with the proposal.

Analysis:

The proposed facility will consist of 100,000 PV panels, forty-two 50-foot high electrical utility poles, twenty 300 square-foot inverter buildings, an 8,850 square-foot substation and an eight-foot high chain-link fencing.

The facility will produce an estimated 20 megawatts (MW) of electricity which will be delivered to the PG & E power grid for use in California. The project is located on regularly farmed land within an area of agricultural land uses. Parcels adjoining to the north, south, east and west of the project site are also farmland and range from approximately 38 acres to 317 acres in size. The closest single-family residence is approximately 2,173 feet east of the site.

Apart from 50-foot high electrical utility poles, all improvements on the property will be low in height and includes 12-foot high PV modules, and ten-foot high inverter buildings. The project will have relatively low visibility from the surrounding land. All improvements on the property will maintain more than minimum building set backs (minimum 646.3 feet provided from the southern property line) required by the Zone District and will be fenced with an eight-foot high chain-link fence to separate the use from adjoining farmland. Since the facility operates only in the day time, no outdoor lighting is required except for motion-activated emergency lighting. Given these considerations and considering compliance with: 1) rodent and weed control requirements from the Agricultural Commissioner's Office; 2) the County's Grading and Drainage Ordinance; 3) fire protection measures from the Fresno County Fire Protection District; 5) Air District requirements related to Indirect Source Review and other mandatory requirements; and 6) handling of any hazardous waste on the property, the project will not have an adverse effect upon surrounding properties.

As required by the California Department of Fish and Game, a Swainson's Hawk Nesting Survey and buffering requirements has been included as Mitigation Measures in the project.

The project will have no effect on federally threatened or endangered species as noted by the U.S. Fish and Wildlife Service.

Based on the above information and with adherence to Mitigation Measures addressing on-site lighting, compliance with the Nine-Point Solar Guidelines information including a Pest Management Plan, recommended Conditions of Approval requiring a Site Plan Review (SPR) for implementation of the proposed structural improvements relating to support buildings, and mandatory project Notes, staff believes that the proposal will not have an adverse effect upon surrounding properties.

Staff notes that the Project Applicant has offered additional conditions (Exhibit 11) to address biological concerns raised by particular organizations. Although staff believes the analysis provided in the project's environmental document to be adequate based on comments received from Trustee and Expert Agencies, the additional conditions have been attached as Exhibit 11 for the Commission's consideration. Additional biological information mentioned in the subject letter has been submitted into the record and will be available at the Hearing.

Recommended Conditions of Approval:

- *All lighting shall be hooded and directed so as not to shine towards adjacent properties and public streets or roadways.*

- A Site Plan Review Application shall be submitted for approval by the Director of the Department of Public Works and Planning, in accordance with Section 874 of the Fresno County Zoning Ordinance. The Site Plan Review shall be applicable to those portions of the project site(s) to be improved with sub-station, inverters, perimeter access road, parking, and driveway access, excluding the solar panel fields. Items to be addressed under the Site Plan Review may include, but are not limited to, design of parking and circulation, driveway, access, grading and drainage, fire protection, and lighting.

Conclusion:

Finding 3 can be made.

Finding 4: *General Plan Consistency*

Relevant Policies:	Consistency/Considerations:
<p>General Plan Policy LU-A.3: County may allow by discretionary permit in areas designated Agriculture, certain agricultural uses and agriculturally-related activities, including certain non-agricultural uses, subject to following Criteria: a) Use shall provide a needed service to surrounding agricultural area, which cannot be provided within urban areas; b) Use shall not be sited on productive agricultural lands if less productive lands available; c) Use shall not have a detrimental impact on water resources or the use or management of surrounding properties within ¼-mile radius; d) Probable workforce located nearby or readily available.</p>	<p>With regard to Criteria "a", the electricity generated by PV solar panels will be supplied to the PG & E power grid to be used by the surrounding agricultural land and other non-agricultural uses. Given the nature of the use large, undeveloped area is required to cover the panel arrays, thus this proposal cannot be accommodated in urban areas. With regard to Criteria "b", the subject parcel has been selected based on several factors cited in Exhibit 7 (Solar Facility Guidelines, Item No. 7). The project will be located on regularly farmed land in an area where no non-contracted less productive agricultural land is available or suitable for the proposed use. With regard to Criteria "c", the Water/Geology/Natural Resources Section of the Development Services Division expressed no water-related concerns with the proposal. Water needed for construction and washing of PV modules will be provided by the City of Firebaugh. As discussed in Finding 3 and in the Initial Study write-up attached to this Staff Report as Exhibit 8, staff does not believe the project will have a detrimental impact to surrounding properties. With regard to Criteria "d", the City of Firebaugh at 12 miles east of the project site can provide adequate workforce.</p>
<p>General Plan Policy LU-A.12: County shall seek to protect agricultural activities from encroachment of incompatible land uses.</p>	<p>The proposed facility is temporary in nature. A Reclamation Plan will be implemented to restore the site to agricultural uses once the facility operation ceases. Also, as noted in the</p>

Relevant Policies:	Consistency/Considerations:
<p>General Plan Policy LU-A.13: County shall require buffers between proposed non-agricultural uses and adjacent agricultural operations.</p>	<p>Solar Facility Guidelines (Exhibit 7), during the life of the project, a Weed and Rodent Control Plan will be implemented to reduce weed and rodent impacts to adjacent farmland.</p> <p>An eight-foot high chain-link fence will be installed around the entire 120.07-acre portion of a 155.85-acre parcel project site to protect both the on-site facility and surrounding farmland. The Zoning Ordinance allows the proposed improvements on the property to maintain no more than minimum setbacks required by the AE-20 Zone District. However, in this case, the improvements will be provided with setbacks much greater than required by the Zone District. The project is consistent with these Policies.</p>
<p>General Plan Policy PF-C.17: County shall undertake a water supply evaluation, including determinations of water supply adequacy, impact on other water users in the County, and water sustainability.</p>	<p>The Water/Geology/Natural Resources Section of the Development Services Division expressed no water-related concerns with the proposal. Water for construction and periodic cleaning of solar panels will be provided by the City of Firebaugh. The proposal is consistent with this Policy.</p>

Reviewing Agency Comments:

Policy Planning Section of the Development Services Division: The property is designated Agriculture in the General Plan. According to General Policy LU-A.3, non-agricultural uses such as electrical power generation facilities may be allowed by means of a discretionary use permit. Policy LU-A.12 of the General Plan requires that agricultural activities be protected from encroachment of incompatible uses, Policy LU-A.13 requires buffers between proposed non-agricultural uses and adjacent agricultural operations, and Policy LU-A.14 requires an assessment of the conversion of productive agricultural land and that mitigation is required where appropriate. The site is under a Williamson Act Contract. Cancellation of the subject Contract was approved by the Agricultural Land Conservation Committee on September 23, 2011 and will be recommended for approval to the County Board of Supervisors after approval of this application by the Planning Commission.

Analysis:

As discussed above in General Plan Consistency, the subject Use Permit Application meets the intent of General Plan Policies related to this proposal. The proposed development will: 1) be chain-link fenced to provide a buffer between the subject solar facility and adjoining farmland; 2) protect adjoining farmland through implementation of a Weed and Rodent Control Plan; 3) not impact the groundwater resources as all water to the project will come from off-site sources;

and 4) result only in a temporary conversion of productive agricultural land and the land will be restored to the prior farming capability upon cessation of the use.

The 120.07-acre portion of the site for this project is classified as Farmland of Statewide Importance on the Fresno County Important Farmland Map 2008 and has been farmed regularly over the last ten years. The site is under a Williamson Act Land Conservation Contract (ALCC No. 1425) which has been approved for cancellation by the Agricultural Land Conservation Committee on September 23, 2011. On May 3, 2011, the Fresno County Board of Supervisors took action to require that supplemental application information based on the Nine-Point Solar Facilities Guidelines be provided by solar utility applicants as part of their project submittal packages. Required material includes historical information on the agricultural use of the property, the source of water, current status of the parcel including any Agricultural Land Conservation Contracts, the soil type, information on improvements and site buffering, the submittal of a Reclamation Plan, pest management information, and acknowledgement of the County's Right-to-Farm Ordinance. The Applicant has provided this information (Exhibit 7) which has been reviewed and approved by the County Agricultural Commissioner's Office and the Policy Planning Section of the Development Services Division.

As noted in the "Response to Solar Electrical Generation Facility Guidelines" dated March 2, 2011, submitted by the Applicant in compliance of Item 6 of the Nine-Point Solar Facilities Guidelines, the site will be restored to agricultural uses within six months of the discontinued use of the facility by removing all equipment, structures, and building improvements at and above-grade and restoring the site to its previous condition. The site reclamation requirement and the requirement that the project shall: 1) provide with and adhere to the a Pest Management Plan for managing weeds, insects, and disease and vertebrate pests that may impact adjacent properties; and 2) utilize pest control professionals to keep the project site free of rodents, weeds, and other vegetation has been included as Mitigation Measures.

Based on the above information, staff believes the project is consistent with the Fresno County General Plan.

Recommended Conditions of Approval:

- *See Mitigation Measures listed on Pages 14 and 15 of this Report.*

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

Letters and electronic correspondence were received from organizations expressing concerns with the project's environmental documents, copies of which are attached as Exhibit 10. Supporting documentation attached to the subject correspondence has been retained for the record and will be distributed to the Commission at the hearing, but has not been attached to the staff report due to the volume of information provided.

Staff notes that the County had pre-engaged with reviewing Agencies, as is standard procedure, prior to drafting the environmental document and that project details including Site Plans and Elevations were provided to those Agencies as part of the project review packet.

Staff believes the environmental document prepared for the subject application adequately addresses the requirements of CEQA.

CONCLUSION:

Staff believes the required Findings for granting the Unclassified Conditional Use Permit Application can be made based on the factors cited in the analysis, the recommended Conditions of Approval and project Notes regarding mandatory requirements. Staff therefore recommends adoption of the Mitigated Negative Declaration prepared for the project and approval of Unclassified Conditional Use Permit Application No. 3297 subject to the recommended Conditions.

PLANNING COMMISSION MOTIONS:

Recommended Motion (approval action)

- Move to adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 6279; and
- Move to determine the required Findings can be made and move to approve Unclassified Conditional Use Permit Application No. 3297, subject to the Conditions and Notes listed below; 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. 3297; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended 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. A Site Plan Review (SPR) Application shall be submitted for approval by the Director of the Department of Public Works and Planning, in accordance with Section 874 of the Fresno County Zoning Ordinance. The SPR shall be applicable to those portions of the project site(s) to be improved with sub-stations, inverters, perimeter access road, parking, and driveway access, excluding the solar panel fields. Items to be addressed under the SPR may include, but are not limited to, design of parking and circulation, driveway, access, grading and drainage, fire protection, and lighting.
3. The project shall adhere to the setbacks shown on the Site Plan (41feet to 88 feet along the northern property line, 610 feet to 646 feet along the southern property line, 49 feet to 69 feet along the eastern property line and 60 feet to 82 feet along the western property line).

4. The project shall comply with the "Response to Solar Electrical Generation Facility Guidelines" dated March 2, 2011" attached as Exhibit 7 to the Staff Report and as approved and/or modified by the Commission.
5. As part of the Site Plan Review submittal process, an agreement incorporating the provisions of the "Right-to-Farm" Notice (Ordinance Code Section 17.40.100) shall be entered into with Fresno County acknowledging the presence of surrounding agricultural operations and their related activities.
- *6. All lighting shall be hooded and directed so as not to shine towards adjacent properties and public streets or roadways.
- *7. The project shall adhere to the procedures listed in the "Response to Solar Electrical Generation Facility Guidelines" dated March 2, 2011 prepared for the operation including requirements for preliminary financial estimates, bonding and facility removal when operations cease. Prior to the issuance of any 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 Applicant/ property owner and the County of Fresno and shall run with the land requiring the site to be restored to agricultural uses at the cessation of photovoltaic solar facility operation. The required bond amount shall be revised and based upon a final cost estimate for reclamation that will include full cost estimates for removal of solar panel fields.
- *8. Prior to the issuance of any permits, a Pest Management Plan shall be submitted to the Department of Public Works and Planning and approved by the Fresno County Agricultural Commissioner's Office. The Pest Management Plan shall identify methods and frequency to manage weeds, insects, and disease and vertebrate pests that may impact adjacent properties.
- *9. The project operator shall utilize pest control professionals to keep the project site free of rodents at all times.
- *10. The project operator shall at all times keep the project site free of weeds and other vegetation that could harbor pests or become a fire hazard.
- *11. To mitigate potential impacts to on-site foraging and nesting Swainson's Hawk (Hawk), the Applicant shall have a qualified Ornithologist survey the site during Hawk nesting season prior to project construction in accordance with the "Swainson's Hawk Technical Advisory Committee's Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys" dated 2000. In addition to pre-construction nesting surveys the Applicant shall:
 - a. Adhere to the ½-mile buffer around active nests during the nesting season which prohibit project-related construction within the buffer of active nests, should they be found.
 - b. Work closely with the California Department of Fish and Game (CDF & G) including insuring that the qualified individual retained to conduct survey work contact CDF & G prior to and upon completion of the surveys to insure the most

current surveying procedures are implemented and that the need for an Incidental Take Permit is discussed with that agency.

- c. Proof that adequate survey work was completed in consultation with CDF & G shall be provided to the County of Fresno's Department of Public Works and Planning.
- *12. In the event that cultural resources are unearthed during grading 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 construction, 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.
- MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

NOTES:

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

1. Construction Plans are required to be submitted and Building Permits shall be obtained for all improvements on the project site. Construction Plans must be prepared by a licensed Design professional. Building Permits are also required for fences more than six feet in height. Contact the Building and Safety Section of the Development Services Division at (559) 600-4540 regarding permits for construction.
2. Any additional storm water run-off generated by the project cannot be drained across property lines and must be retained on-site per the County Standards.
3. An Engineered Grading and Drainage Plan is required to show how additional storm water run-off generated by the proposed development will be handled without adversely impacting adjacent properties. A Grading Permit or Voucher is required for any grading proposed with this application.

Note: These requirements will be addressed through Site Plan Review recommended as a Condition of Approval.

4. According to FEMA FIRM Panel 0950H and 1400H, the parcel is not subject to flooding from the 100-year storm.
5. Any improvement to provide access to County-maintained roads such as Russell Avenue from the parcel will require a plan and approval to coincide with issuance of an Encroachment Permit from the County Road Maintenance and Operations Division. The Russell Avenue Bridge is slated for replacement and will be closed for extended lengths of time. The Applicant shall contact the County Design Division and coordinate their

construction schedule with the anticipated construction for replacement of the structure on Russell Avenue.

6. The proposal shall comply with the 2007 California Code of Regulations Title 24 Fire Code. The Applicant shall submit three Site Plans, stamped "reviewed" or "approved" from the Fresno County Department of Works and Planning, to the Fresno County Fire Department for their review and approval. The Applicant shall submit evidence that their Plan was approved by the Fire Department, and all fire protection improvements shall be installed, prior to occupancy granted to the use.
7. Project development should include a plan to control weeds and rodents within the project area to prevent the site from becoming a nuisance to neighboring properties or surrounding agricultural operations. Any weed or rodent infestation that is of a nature and magnitude as to constitute a "public nuisance" (Section 5551 of the California Food and Agricultural Code; Sections 3479 and 3480 of the Civil Code; and Section 372 of the Penal Code) and is not addressed by the property owner/operator is unlawful under California Food and Agricultural Code Section 5553 and Penal Code Section 372.
8. Prior to occupancy, the Applicant shall complete and submit either a Hazardous Materials Business Plan or a Business Plan Exemption form to the Fresno County Department of Public Health, Environmental Health Division (Health Department) and shall handle all hazardous waste in accordance with requirements set forth in the California Health and Safety Code, Chapter 6.5.
9. Should a water well be drilled, the water well contractor selected shall be required to apply for and obtain a Permit to Construct a Water Well from the Health Department.
10. Should any underground storage tank(s) be found during the project, the Applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division.
11. According to the Site Plan Review Section of the Development Services Division, one parking space shall be provided for every two employees and the first space will need to be for the disabled. An asphalt concrete driveway approach 24 to 35 feet in width shall be provided where the access road ties into the public road serving the site. The driveway shall be concrete or asphalt concrete paved a minimum width of 24 feet for the first 100 feet off of the edge of the road right-of-way. Dust palliative shall be required on all unpaved parking and circulation areas.

Note: These requirements will be addressed through Site Plan Review recommended as a Condition of Approval.

12. The Applicant shall adhere to the following Rules and Regulations set by the San Joaquin Air Pollution District:
 - A. District Rule 9510 (Indirect Source Review).
 - B. District Regulation VIII – Fugitive Dust Rules, to address impacts related to PM-10.

- C. Rule 4102 (Nuisance), to address any source operation that emits air contaminants or other materials.
- D. Rule 4601 (Architectural coatings).
- C. Rule 4641 (Cutback, Slow, Cure, and emulsified Asphalt, Paving and Maintenance Operations).

The project, pursuant to Rule 9510, shall pay applicable Off-Site Mitigation Fees to the Air District prior to issuance of the first Building Permit for the project by the County Building Permit and Safety Section.

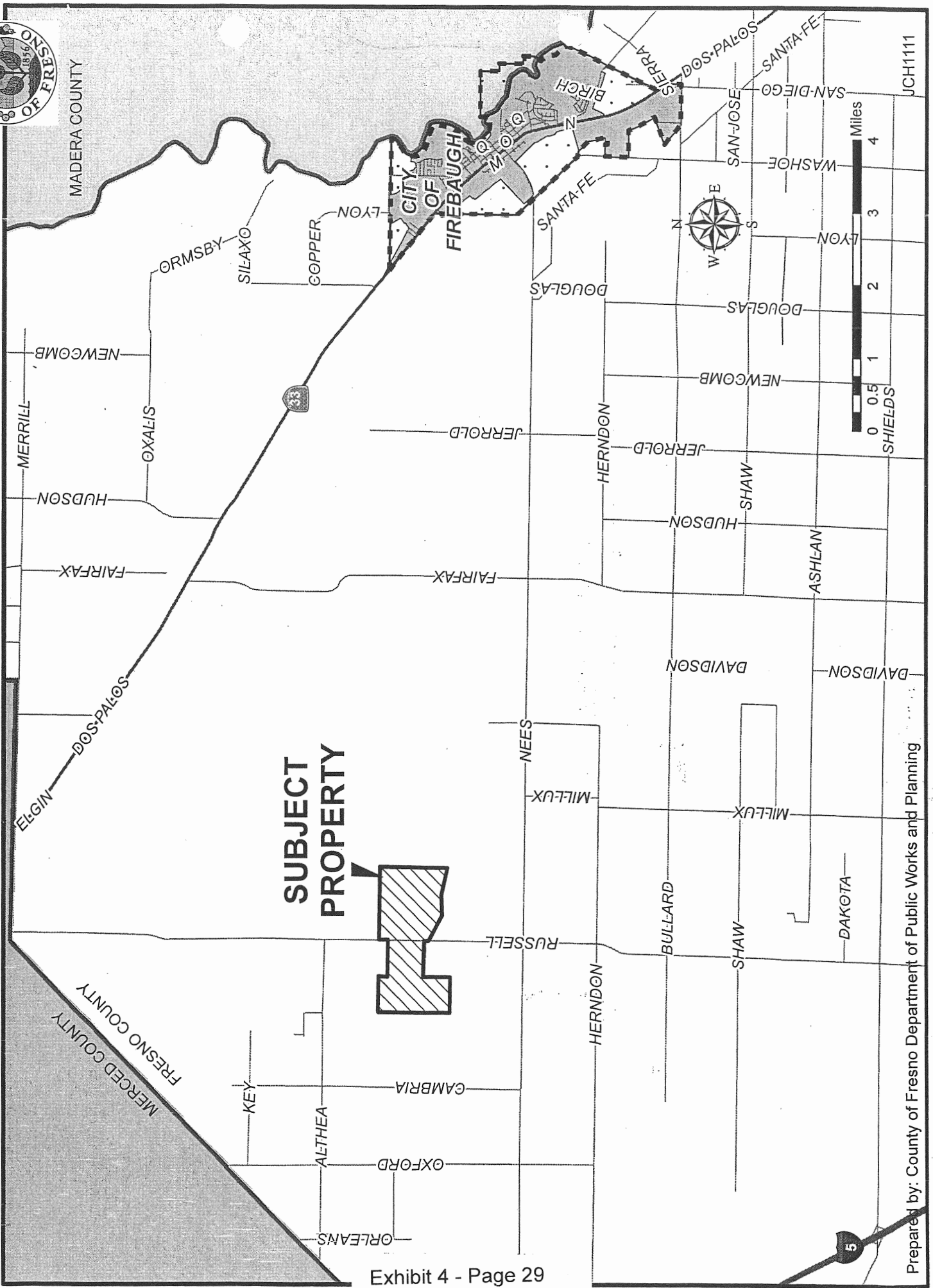
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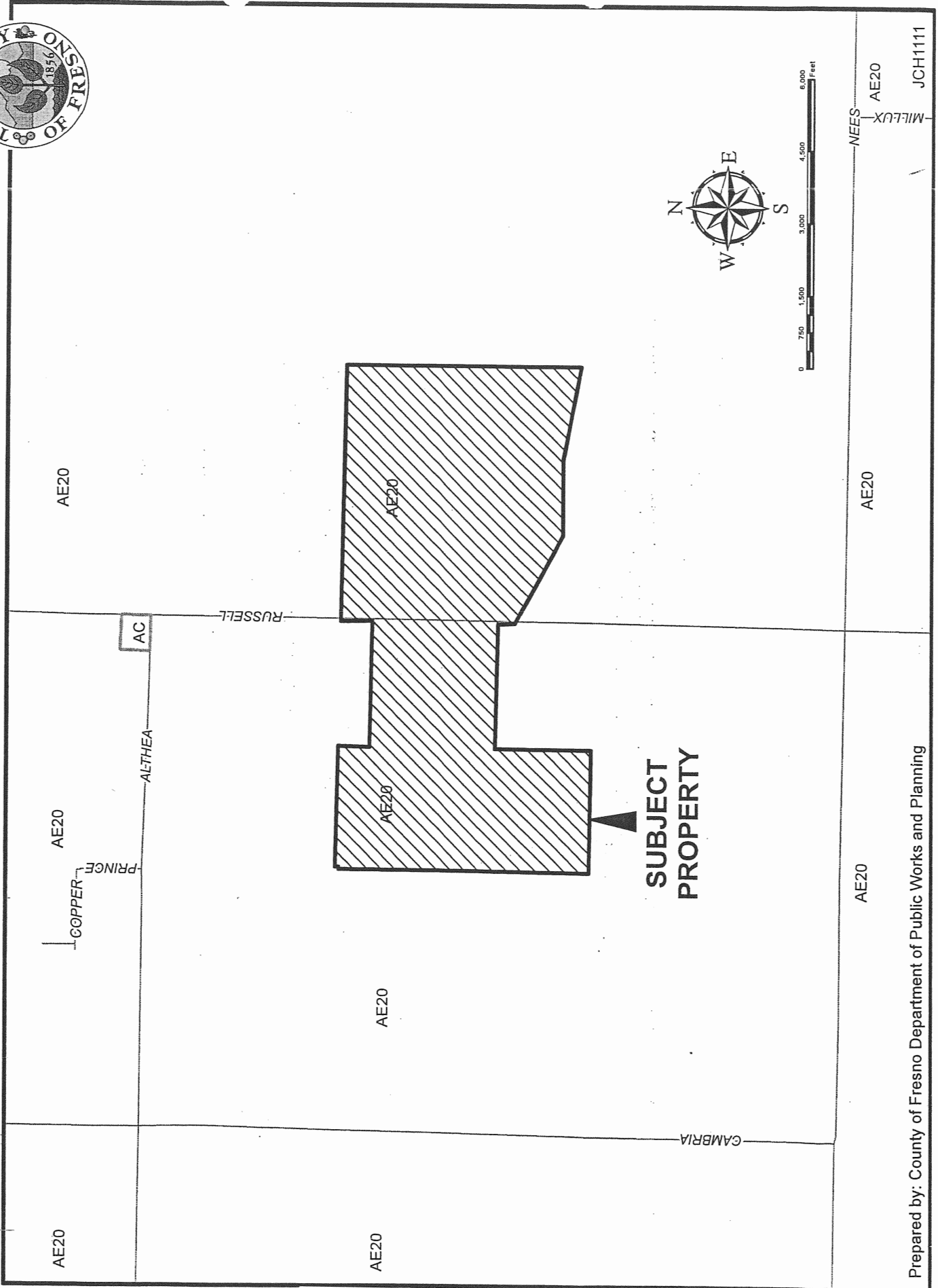


LOCATION MAP

CUP 3297



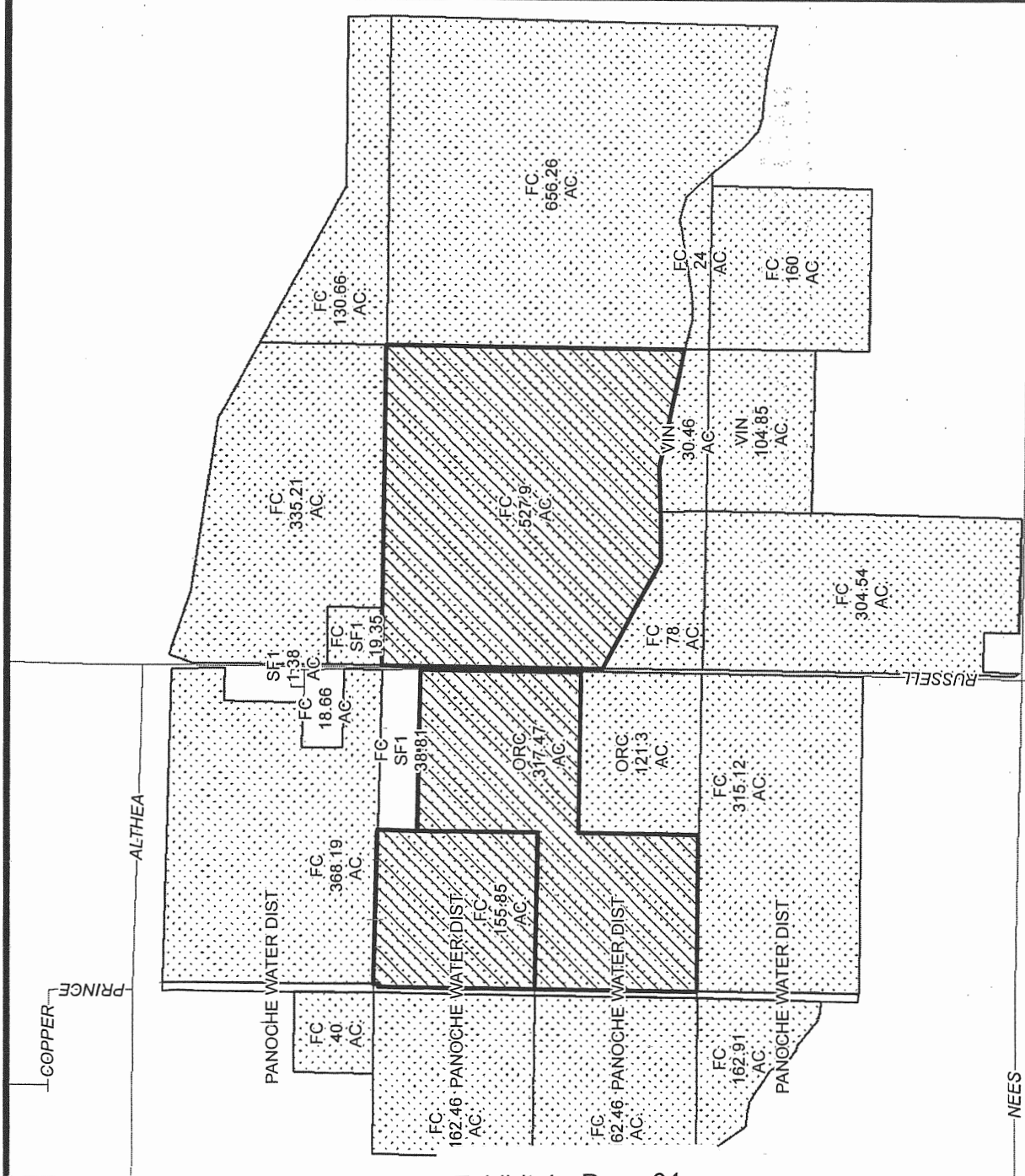
EXISTING ZONING MAP





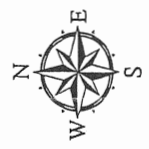
EXISTING LAND USE MAP

CUP 3297



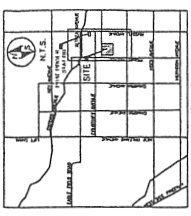
LEGEND	
FC	FIELD CROP
ORC	ORCHARD
SF#	SINGLE FAMILY RESIDENCE
V	VACANT
VIN	VINEYARD

LEGEND:	
	Subject Property
	Ag Contract Land



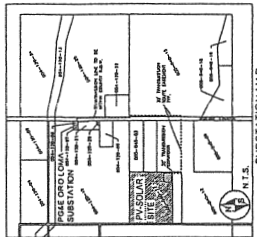
Department of Public Works and Planning
Development Services Division

LAST PAGE SHEET, A.S. RESERVES THE RIGHT TO REVISIT THE DESIGN AND CONSTRUCTION PLANS AND TO MAKE CHANGES WITHOUT NOTICE AND WITHOUT LIABILITY.

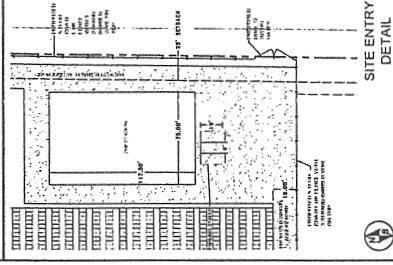


PROPERTY DATA:

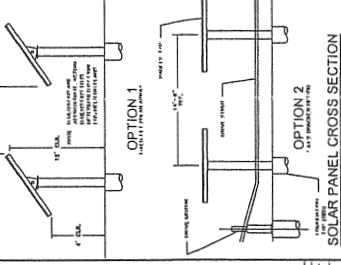
APRIL 09/2019/17
 PROPERTY OWNERS: MARION MARCELOS, PASCAL MARCELOS, STACILE MARCELOS
 PROPERTY AREA: 44.84 ACRES
 DEVELOPMENT AREA: 120+ ACRES
 SETBACK REQUIREMENTS:
 FRONT: 35' (MIN)
 REAR: 20'
 PREPARED FOR: SR SOLIS ORO, LOMA, LLC
 P.O. BOX 271390
 10770 VICTORY DR., SUITE 277
 CARMICHE MONTECLA
 CONTRACT:
 PANEL COUNT: 100,000 PANELS
 SITE COVERAGE: 80% (DEVELOPMENT AREA)



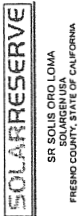
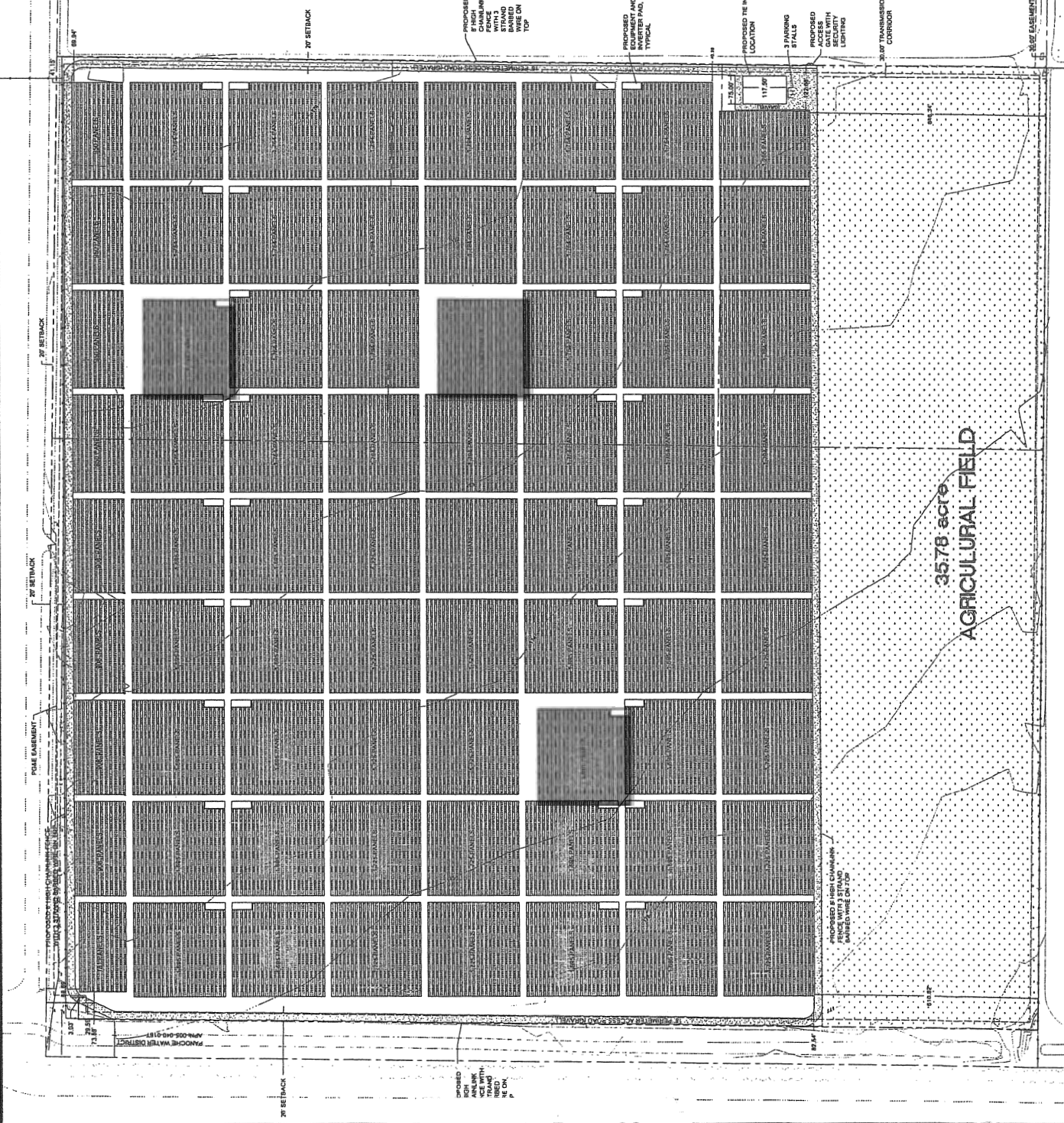
SUBSTATION MAP



SITE ENTRY DETAIL



SOLAR PANEL CROSS SECTION

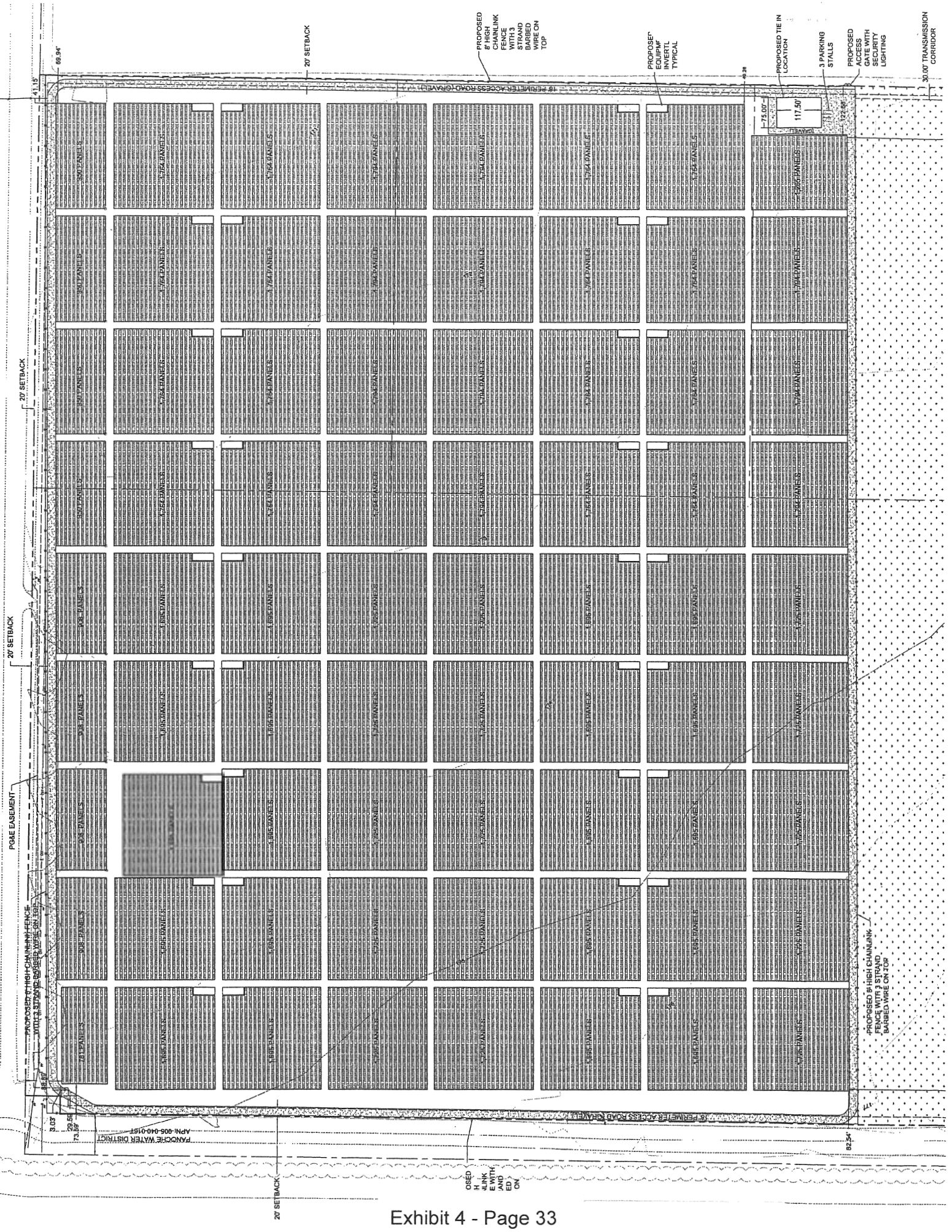


SR SOLIS ORO, LOMA
 SOLARGEN USA
 FRESNO COUNTY, STATE OF CALIFORNIA

DATE: 10-21-11
 L.A. PROJECT NO: 090313.00



SITE PLAN
 (SCHEME G)
 SHEET NUMBER
 2 OF 2



20' SETBACK

20' SETBACK

PROPOSED HIGH CHAINLINK FENCE WITH 3 STRAND BARBED WIRE ON TOP

PROPOSED EQUIPMENT INVERT TYPICAL

PROPOSED TIE IN LOCATION

3 PARKING STALLS

PROPOSED ACCESS GATE WITH SECURITY LIGHTING

30' 00" TRANSMISSION CORRIDOR

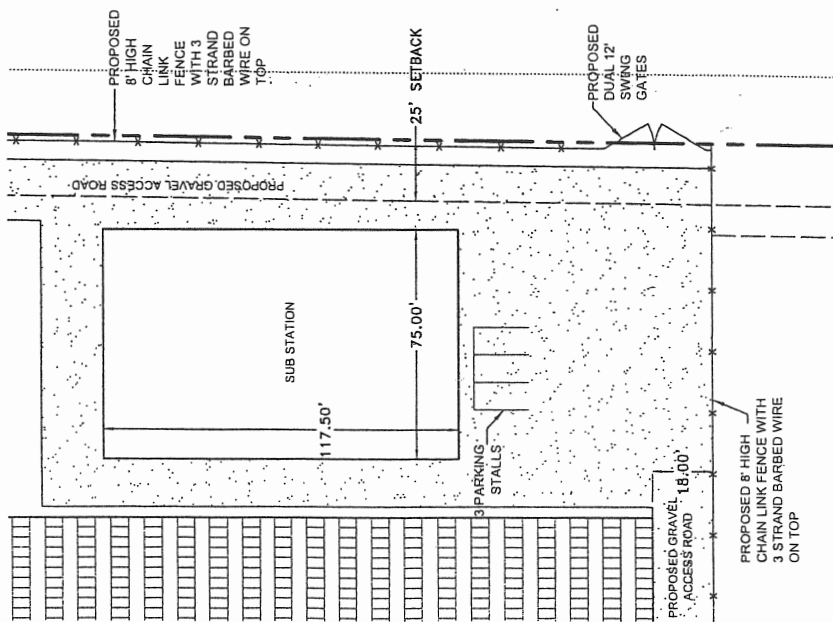
POAE EASEMENT

PROPOSED HIGH CHAINLINK FENCE WITH 3 STRAND BARBED WIRE ON TOP

PROPOSED HIGH CHAINLINK FENCE WITH 3 STRAND BARBED WIRE ON TOP

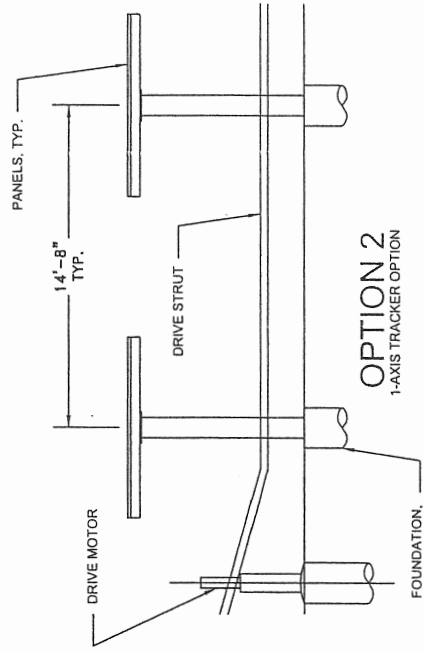
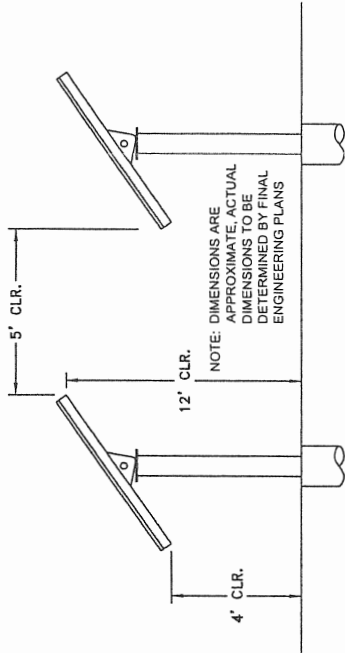
PROPOSED HIGH CHAINLINK FENCE WITH 3 STRAND BARBED WIRE ON TOP

APN: 006-010-0157
FANCHER WATER DISTRICT



SITE ENTRY DETAIL

SCALE: 1"=40'



SOLAR PANEL CROSS SECTION

NOT TO SCALE



LARS ANDERSEN & ASSOCIATES, INC.

CIVIL ENGINEERS - LAND SURVEYORS - PLANNERS

4694 WEST JACQUELYN AVENUE FRESNO CALIFORNIA 93722
 TEL: 559 276-2790 FAX: 559 276-0850 WWW.LARSANDERSEN.COM

SR SOLIS ORO LOMA
 SOLARGEN USA
 FRESNO COUNTY, STATE OF CALIFORNIA

LA JOB NO. 09033.00

LARS INDEPENDENT ASSOCIATES, INC.
 CIVIL ENGINEERS, LAND SURVEYORS, PLANNERS
 10000 N. 10th Street, Suite 100, Fresno, CA 93720
 TEL: 559-434-2200 FAX: 559-434-2202
 WWW.LIASSOCIATES.COM

VICINITY MAP

Proposed 30' Transmission
 Line Easement

NOTE: THESE LOTS ARE CONVEYED AND SUBJECT TO
 CHANGE. PANEL SIZE AND CONFIGURATION ARE SUBJECT
 TO FINAL DESIGN AND LAND.

SOLARRESERVE
 Transmission Route

SR SOLIS ORO LOMA
 SOLIS ORO LOMA
 FRESNO COUNTY, STATE OF CALIFORNIA
 DATE: 10/21/11
 L.A. PROJECT NO: 09033-00

NOT TO SCALE

COVER SHEET
 SHEET NUMBER
 1 of 2



REVISED
RECEIVED
COUNTY OF FRESNO
OCT 20 2011
DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION
CUP 3297

INTRODUCTION

SR Solis Oro Loma, LLC (Applicant) is proposing the construction and operation of a 20 megawatt (MW) photovoltaic (PV) solar electricity generating facility on approximately 120 acres of land located in western Fresno County, California. In addition to the installation of the PV solar modules, the proposed Project would also include the construction of equipment and inverter stations, a substation, and interconnection transmission line.

PROJECT LOCATION

The proposed Oro Loma Project (Project) is located in an unincorporated area of western Fresno County, California. The Project site is located approximately 12 miles west of Firebaugh; approximately 1/2 mile west of North Russell Avenue between West Nees and West Althea Avenues. The site can be found within the Dos Palos United States Geological Survey (USGS) 7.5 minute quadrangle. The Project is located in Public Land Survey System Section 21 of Township 12 South, Range 12 East, M. D. B & M.

The solar facility site, including the substation, is located on Assessor Parcel Number (APN) 005-040-17S; owned by Aric & Stacey Barcellos Trustees and Aaron & Jennifer Barcellos Trustees. The solar facility would be constructed on approximately 120 acres of the approximately 156-acre property, under a 35-year lease agreement. The 36 acres not included in the development of the solar facility would continue to be farmed and/or used for mitigation purposes. The proposed 12 kV interconnection transmission line would be located within a 30-foot easement on the southern 650' of the eastern boundary of APN 005-040-17S; from the southeast corner of APN 005-040-17S east to Russell Avenue within APN 005-040-12; and along the western boundary of APN 005-040-15S. The transmission line will then continue within Russell Avenue county ROW to the Pacific Gas and Electric Company (PG&E) Oro Loma substation.

PROJECT BACKGROUND AND OBJECTIVES

The Project is intended to provide emission-free, solar powered renewable energy to the California Grid to assist with meeting, local energy demands, State Renewable Portfolio Standard, and Assembly Bill (AB) 32 mandates. The Project would provide approximately 20 MW of renewable energy while providing jobs and economic stimulus in an area currently experiencing over 18% unemployment.

ENVIRONMENTAL SETTING

The Project site is approximately seven (7) miles east of the Coast Range and approximately 55 miles west of the Sierra Nevada foothills within the Central San Joaquin Valley. Topographically, the Project site is approximately 180 feet in elevation above mean sea level. The Project lies within the San Joaquin Valley Air Basin and air quality is regulated by the San Joaquin Valley Air Pollution Control District (SJVAPCD).

The Project site is mapped by the Department of Conservation (DOC), Farmland Mapping and Monitoring Program (FMMP) as "Farmland of Statewide Importance" (approximately 126 acres) and "Prime Farmland" (approximately 30 acres). Surrounding land is predominantly of similar quality with lands north of the Project site designated as "Farmland of Statewide Importance" and lands to the

south, west, and east designated as “Prime Farmland”. The Panoche Water District has retired lands to the north due to soil challenges.

The Project site lies in the trough of the San Joaquin River Basin that is characterized by perched water tables. The natural depth to groundwater is less than six feet (USBR 2002). Groundwater is prevented from rising to this level by a tile drainage system that intercepts the rising groundwater and drains it away from the root zone. The poor quality of groundwater in the vicinity of the project site prevents it from being utilized for crop irrigation. In particular, the high salt content and the presence of elevated levels of boron exceed the tolerances for most agricultural crops. There are currently no wells on the Project site or Barcellos’ adjacent property.

The Project site and surrounding lands are zoned Exclusive Agriculture, 20-acre Minimum (AE-20). The Fresno County General Plan also designates the Project site and surrounding land for Agricultural Use. The land uses surrounding the Project site include agricultural uses, retired agricultural land and scattered rural residences. The Project site is bounded on the south and east by agricultural land owned and operated by the owner of the Project Site. The property at the northern boundary of the site is owned by Koda Farms and has been leased by A-Bar Ag Enterprises since January, 2006. The western boundary of the property lies adjacent to the Panoche Water District main canal, which creates an approximate 100 foot buffer to the nearest agricultural land west of the Project site.

Historical Background

The Project site is located on land owned by the Barcellos Family. A-Bar Ag Enterprises (A-Bar) was formed in 1988 to consolidate the Barcellos Family’s farming operations. Since 1988, the A-Bar farming operation has grown from approximately 900 acres to over 6,000 acres of farmland in western Fresno and Merced Counties. A-Bar produces a diversified rotation of irrigated field crops that include wheat, corn, alfalfa, cotton, melons, processing tomatoes and vegetables.

The proposed solar facility is located on 120 acres, or approximately 2% of the Barcellos family’s existing land holdings in the area. The Project parcel is currently and has been under Williamson Act Contract # AP 1425 since February 26, 1970. The majority of the surrounding farmlands are also under contract.

The Project Site has been actively farmed as part of the Barcellos Farming operation since 1988 in a typical irrigated field crop rotation for western Fresno County. The Barcellos family has farmed the Project site since 1988. Crops grown prior to 2000 were cotton, alfalfa, wheat and processing tomatoes.

Crops since 2000 include:

2001 – Cotton

2002-2005 – Alfalfa

2006 – Cotton

2007-2010 – Processing Tomatoes

Prior to 2007 crop yields for cotton and alfalfa were typically below the County averages due to high water table and high salts and boron in the soil profile. Crop yields since 2007 have been 58.5 tons/acre for processed tomato crops, which represents an increase from the County averages primarily because of the drip irrigation system added in 2007.

PROJECT DESCRIPTION

The proposed Project is for the construction and operation of a 20 MW photovoltaic electric generating facility, which includes solar modules, equipment and inverter stations, a substation, and a transmission line. The solar facility will be located on approximately 120 acres of the 156 acre property. The remaining 36 acres of land, not included for development, will continue to be farmed and/or used for mitigation purposes.

Project Facilities

Solar Modules

The proposed 20 MW Project would install a maximum of 100,000 solar modules, depending on the final selection of the module and their corresponding size (ranging from 200-300 watts per module). Due to the rapid changes in photovoltaic technology no final decision has been made on the modules or racking system; however the solar modules would be predominantly mounted on low-to-ground fixed support structures, with a maximum height of 12 feet. The solar arrays may be alternatively installed on low-to-ground tracking system.

As presently envisioned, the lower side of each module would be approximately four (4) feet above ground level while the higher side would be a maximum of 12-feet in height. The width of each array (approximately 1,660-2,500 modules) would be approximately nine (9) feet and the arrays would be separated by approximately 8.5 feet.

Equipment and Inverter Stations

Approximately 40 equipment and inverter stations containing electrical equipment to serve each 500 kilowatt (kW) PV inverter and corresponding block of solar panel arrays (1,660-2,500 modules) would be installed. Mounted on each pad would be a 500 kilovolt Ampere (kVA) 277/480-12.47 kilo-volt (kV) step-up transformer, one (1) 500 kVA inverter and a 1,600 amp electrical panel. Approximately 20 inverter/switchgear housings will be required; each measuring approximately 10' wide x 30' long x 10' tall.

Electric Transmission

Electric transmission for the Project would be provided by a new interconnection from the solar facility site to the PG&E Oro Loma Substation located on the west side of North Russell Avenue approximately one (1) mile northeast of the Project site. A new approximately 1.5 mile 12-kilovolt (kV) overhead radial transmission line would connect the solar facility to the Oro Loma Substation. The transmission line would be located in an approximate 30 foot easement within private property (the southern 650' of the eastern boundary of APN 005-040-17S; from the southeast corner of APN 005-040-17S east to Russell Avenue within APN 005-040-12; and along the western boundary of APN 005-040-15S) and public right-of-way along Russell Avenue. The wooden utility poles will be approximately 50 feet in height and spaced approximately 200 feet apart, requiring approximately 42 poles.

Substation

The new collection substation would be located at the southeast corner of the solar facility site and surrounded by a fenced enclosure. The substation would be approximately 75 feet by 118 feet in size and consist of a 69 kV breaker, mounted on an eight (8) foot by eight (8) foot concrete foundation; a 69-12.47 kV power transformer, mounted on a 10' x' 20' concrete pad with a surrounding concrete oil

Project Description

containment basin; and one 12.47 kV collection circuit breaker, mounted on a seven (7) foot by seven (7) foot concrete foundation. Gravel would cover the substation area and extend approximately five (5) feet outside all fences.

Fencing

For public safety and national security, 8-foot tall fencing with razor wire would be installed around the perimeter of the Project. The fence would be constructed with a five (5) to seven (7)-inch tall opening at the base of the fence to allow San Joaquin kit fox movement at the site.

Lighting

Motion activated lighting would be installed on the Project site and would be calibrated to moving objects greater than 50 pounds. This would limit their use to only those times when people walk or drive vehicles on to the site. The lighting would be hooded and directional to minimize off-site light and glare.

Construction

Project construction would require the use of graders, trenchers, small tractors, a crane and miscellaneous equipment. Construction equipment would comply with “clean-fleet” standards per the SJVAPCD. After initial site grading, a hydraulic driver would be used to drive metal supports into the ground. Up to seven (7) miles of trench 18 inches wide and three (3) feet deep would be dug in order to bury four (4)-inch diameter conduit for AC and DC wires connecting solar panel arrays with the electrical equipment on site.

The Project would comply with San Joaquin Valley Air Pollution Control District Rule 8021 for construction and earthmoving activities. A Storm Water Pollution Prevention Plan (SWPPP) would be in effect for the Project to prevent impacts on adjacent properties from any storm water generated on-site.

Schedule

The Project would be built over a one (1) to (2) year period depending on the interconnection and power sale timing. The construction phase is planned to occur over eight non-continuous months. Initial site grading would take approximately two (2) to three (3) weeks. The remainder of the construction period would be the on-site assembly and installation of PV panels which would not require heavy machinery.

The construction start date will commence upon acquisition of all necessary permits, approvals, power sale and financing.

Material staging

Construction of the Project would require temporary staging and storage areas for the Project materials and equipment. The materials staging and storage would be located onsite in areas that would not be used for modules.

Construction access

All materials for Project construction would be delivered by truck. The majority of the truck traffic would occur on designated truck routes and major streets. Trucks would use Russell Avenue to access the Project site. It is anticipated that Project construction would require approximately three (3)

construction equipment delivery trips and 150 construction worker trips per day during the eight non-continuous months of construction. This is an average of 153 construction vehicle trips per day.

Grading

The Project site is relatively flat with a slight grade from north to south. The site would require minimal grading where the PV modules would be installed. Grading would be required for access roads, inverter pads, and substation. An 18-foot-wide access road would be formed around the perimeter of the site. The soil would be compacted, as required, for access roads, inverter pads, switchyard, and substation.

Maintenance and Operation

The proposed facility would operate seven (7) days a week and 365 days per year. Monitoring of the facility would be conducted from remote office facilities; however an operational supervisor and maintenance crews would visit the site as needed for cleaning and repairs.

The main access to the site would be provided by a private driveway and gate located at the southeast corner of the Project site. An 18-foot wide gravel access road would be installed along the perimeter of the entire site for ease of maintenance of the solar arrays. Three (3) parking spaces are proposed at the main entrance to the facility.

PV panel washing would occur approximately two (2) times a year depending on the amount of rainfall in a given year. The washing of the panels is similar to common window washing and would employ no harsh chemicals or solvents. Water trucks would be brought on site twice a year for duration of approximately 10 days (20 days/year total). It is estimated that the entire solar facility would require approximately two (2) acre foot of water per year for this use. The Project operations and maintenance would require approximately 264 trips per year. This includes up to eight (8) trips per day during the 20 total days of panel washing per year and approximately two (2) trips per week for any security or maintenance issues, averaging 0.72 trips per day over a typical year.

Pest Management Plan

Two critical components of the Project lease agreement are that the land be reclaimed and returned back to its original agricultural condition upon termination of the solar generation activities and that the Project site be maintained in good order (to the landowner's satisfaction) during the life of the lease. As a result, SR Solis corporate policy requires careful management of the land during the temporary period that it is the steward of the property. This policy requires SR Solis maintain, if not enhance, the agricultural capability of the land during the term of the lease while managing pests and noxious weeds and preventing diseases that could impact surrounding agricultural operations.

Since the solar site will be integrated within the A-Bar agricultural operations, SR Solis and the landowners will work closely together to ensure that operation of the solar facility does not negatively affect adjacent agricultural operations. An integrated pest management plan (IPM), will be developed in conjunction with A-Bar to monitor and control agricultural pests and noxious weeds with a multi-faceted approach that minimizes the use of chemicals in managing the property. SR Solis will hire a certified weed and pest control consultant to develop the IPM plan and monitor its implementation.

Site Reclamation

ORO LOMA SOLAR GENERATION FACILITY PROJECT

Project Description

The life of the Project is proposed to be up to 35 years. At the end of the Project life, the applicant would remove all Project facilities from the site. This would include removing all solar panels, demolishing and removing all buildings, and removal of all infrastructure (roads, pipelines, poles), which is assured according to the lease agreement with the property owner through the posting of a bond. The Project site would be re-leveled and the onsite soil would be reclaimed to a condition that would again support agriculture. The modules and ancillary materials would be recycled to minimize impacts on the environment.

SR Solis Oro Loma, LLC Project
Response to Draft Solar Electrical Generation Facility Guidelines

(As revised by the Fresno County Agricultural Land Conservation Committee – March 2, 2011)

The SR Solis Oro Loma Project parcel, APN 005-040-17S is approximately 156 acres in size and is owned by Aric & Stacey Barcellos Trustees and Aaron & Jennifer Barcellos Trustees. The entire 156 acres is leased by SR Solis Oro Loma, LLC (Applicant) however only approximately 120 acres of the site will be utilized for the solar Project and the remainder of the site (approximately 36 acres) will continue in agricultural use and/or provide mitigation land for Swainson hawk.

APN	Total Acreage	Lease Acreage	Project Acreage*	Remainder (To remain under WA contract)
005-040-17S	~ 156 Acres	~156 Acres	~120 Acres	~36 Acres

*Acreage to be removed from Williamson Act Contract (See Exhibits A and B)

#1 A-Bar Ag Enterprises (A-Bar) was formed in 1988 to consolidate the Barcellos Family’s farming operations. Since 1988, the farm has grown from approximately 900 acres to over 6,000 acres of farmland in western Fresno and Merced Counties. A-Bar produces a diversified rotation of irrigated field crops that include wheat, corn, alfalfa, cotton, melons, processing tomatoes and vegetables.

The Barcellos family has farmed the Project site since 1988. Crops grown prior to 2000 were cotton, alfalfa, wheat and processing tomatoes. Crops since 2000 include:

- 2001 – Cotton
- 2002 – Alfalfa
- 2003 – Alfalfa
- 2004 – Alfalfa
- 2005 – Alfalfa
- 2006 – Cotton
- 2007 – Processing Tomatoes
- 2008 – Processing Tomatoes
- 2009 – Processing Tomatoes
- 2010 – Processing Tomatoes

Prior to 2007 crop yields for cotton and alfalfa were typically below the County averages due to high water table and high salts and boron in the soil profile. Crop yields since 2007 have been 58.5 tons/acre for processed tomato crops, which represents an increase from the County averages primarily because of the drip irrigation system added in 2007.

#2 The Project site receives surface water from the Panoche Water District, a federal water district that is a member agency of the San Luis and Delta-Mendota Water Authority. The Project sites allocation is 2.2 acre feet per acre (100%). Deliveries of water by the U.S. Bureau of

Reclamation are often curtailed due to short water supply in dry years and due to pumping interruptions in the San Joaquin River Delta for fisheries management and rarely meet the contract allocation. In recent years that annual allocation has been cut substantially (received 45% in 2010, and 10% in 2009).

The Project site has been actively farmed over the last 10 years despite the reductions in water allocation through transfers of water from other Barcellos properties in the Firebaugh Canal Company and the Central California Irrigation District, and spot purchases from other contractors. Actual deliveries of water have ranged from 2.1 af/acre to 2.8 af/acre depending on the crop produced.

The Project site lies in the trough of the San Joaquin River Basin that is characterized by perched water tables. The natural depth to groundwater is less than six feet (USBR 2002). Groundwater is prevented from rising to this level by a tile drainage system that intercepts the rising groundwater and drains it away from the root zone.

The poor quality of groundwater in the vicinity of the project site prevents it from being utilized for crop irrigation. In particular, the high salt content and the presence of elevated levels of boron exceed the tolerances for most agricultural crops. There are currently no wells on the Project site or Barcellos' adjacent property.

All irrigation is supplied by surface water and applied by drip systems. When the solar panels are installed, the conservation infrastructure will be removed and relocated on the Barcellos operation except for the drip tape, which is near the end of its operating life.

#3 The Project parcel is currently and has been under Williamson Act Contract #AP 1425 since February 26, 1970. There are no other encumbrances on the property per the Title Report.

#4 The NRCS Soil Survey of West Fresno County (2011) indicates that two soil types are present at the project site: Deldota clay, 0 to 1% slopes, and Chateau clay, partially drained, 0 to 1% slopes. Chateau clay is the dominant soil type, covering approximately 76.8 percent of the project site. Chateau clays are typically deep, poorly drained and saline-sodic soils and occur on alluvial fan skirts. The land capability classification of this soil is 2w, which indicates the soils have moderate limitations that restrict the choice of plants or that require moderate conservation practices.

The Deldota clay soil type covers approximately 23.2 percent of the project site and is located in the southern portion of the Project site, with a small inclusion in the northwest corner. Deldota clay soils are typically deep and poorly drained and also occur on alluvial fan skirts. The land capability classification of this soil is 3w, which indicates the soils have severe limitations that restrict the choice of plants or that require special conservation practices, or both.

The “w” subgroup designation in the Capability Classification that water in or on the soil interferes with plant growth or cultivation; however in some soils the wetness can be partly corrected by artificial drainage. The depth to water table in both Deldota and Cateau clay is typically 42 to 50 inches. The shallow water table and heavy clay content of these soils preclude the planting of most orchard and vineyard crops. Nevertheless, the high available water capacity generally makes these soils well-suited for irrigated field crops and irrigated pasture.

The entire site is mapped by the Department of Conservation (DOC) Farmland Mapping and Monitoring Program (FMMP) as important farmland, with approximately 30 acres designated as “Prime Farmland” and 126 acres as “Farmland of Statewide Importance”.

5 The proposed Project is bounded on the south and east by agricultural land owned and operated by the owner of the Project Site. The northern boundary of the Project site is owned by Koda Farms and has been leased by A-Bar Ag Enterprises since January 2006. The western boundary of the property lies adjacent to the Panoche Water District main canal, which creates a 100 foot buffer to the nearest agricultural land west of the Project Site.

The Proposed Project will not be a source of noise, odor, light, glare or other nuisance; and, therefore will have minimal impact on surrounding agricultural lands. The site will be surrounded by a 12’ slatted fence for security purposes, which will also provide a visual buffer between the site and the surrounding agricultural uses. An 18-20 foot wide gravel access road will be located around the entire perimeter of the solar site just inside the security fence.

The site lease for the Oro Loma Solar Project is similar to an agricultural lease, in that it requires SR Solis to operate the Project in a manner that minimizes impacts to the property and the landowner’s activity on the property or adjacent land and comply with all permitting requirement associated with operating the property. The facility must be maintained in good order and repair throughout the term of the lease agreement. The lease and permitting process also requires appropriate land management including soils, weeds, pests, and drainage.

In order to further ensure that the proposed Project does not impact the agricultural operations, SR Solis will comply with the Fresno County right-to-farm ordinance and will record a right-to-farm acknowledgement prior to Project construction. Any additional maintenance of the solar facility as a result of adjacent agricultural operations will be the responsibility of the Applicant and the Applicant will make no attempt to restrict adjacent agricultural uses permitted by the Fresno County Zoning Ordinance.

Vehicle trips to the site will be minimal during operation of the facility, as the facility will be monitored off-site. Bi-yearly cleaning of the panels will occur and during that time would produce the most trips to the site at approximately eight (8) trips per day.

6 See attached Reclamation Site Plan

7 The Oro Loma substation was selected as an area of interest by SR Solis because of its ability in the California electrical grid to provide needed electricity on the west side of Fresno County. It was anticipated that because of the then-occurring drought more water wells would be drilled requiring significant increase in electrical demand in the area. There was also an indication from PG&E that the electrical needs of the Fresno Agricultural Community would also increase due to the changes that would result from AB32 and the reliance on less fossil fuel. According to PG&E’s Generation Interconnection Services Sr. Project Manager, a minimum of 60% of the Oro Loma substation’s capacity is for agricultural related customers (agricultural operations, rural residences and businesses). SR Solis focused on land between 100 and 160 acres within two miles of the Oro Loma substation due to the anticipated demand of 40 to 60 MW at the substation.

In response to this information SR Solis approached the surrounding property owners, three of which were outside the Williamson Act: Koda, Panoche Drainage District, and Attema. Solar leases were offered to all three; however, only Attema entertained a lease for a solar operation on their property. We are presently in final negotiations to lease the Attema property for a solar facility which will complete, what we anticipate, will be the forthcoming electrical demands on the west side of Fresno County.

SR Solis also approached the Barcellos family; the largest farming operation in the area. SR Solis needed 40 MW and they agreed to lease two parcels of their land totaling approximately 320 acres or about 5% of their operation. According to the Barcellos family, they agreed to the solar leases for three reasons:

Assurances in the lease that the solar operation would not negatively impact the surrounding family and neighbor operation,

Lease terms that would enhance their agricultural operation giving them needed capital to expand their family farm, and

The land will be returned to agricultural purposes after the lease expires in approximately 35 years.

#8 Two critical components of the SR Solis lease are that the land be reclaimed and returned back to its original agricultural condition upon termination of the solar generation activities and that the Project site be maintained in good order (to the landowner’s satisfaction) during the life of the lease. As a result, SR Solis corporate policy requires careful management of the land during the temporary period that it is the steward of the property. This policy requires SR Solis maintain, if not enhance, the agricultural capability of the land during the term of the lease while managing pests and noxious weeds.

Since the solar site will be integrated within the A-Bar agricultural operations, SR Solis and the landowners will work closely together to ensure that operation of the Project site does not negatively affect adjacent agricultural operations. An integrated pest management plan (IPM), will be developed in conjunction with A-Bar to monitor and control agricultural pests and noxious weeds with a multi-faceted approach that minimizes the use of chemicals in managing

the property. SR Solis will hire a certified weed and pest control consultant to develop the IPM plan and monitor its implementation.

Listed below are some of the various techniques and approaches that will be employed:

1. Inventory and monitor plants and animals in the area, which are potential pests in order to detect potential issues before populations build to levels that could create economic injury.
2. Develop strategies and control methods that are needed to keep the population of potential pest below critical threshold levels.
3. Utilize natural predators and ecosystem approaches to keep pest populations under control and below economic injury thresholds.
4. Use selective herbicides and pesticides when necessary to bring pest populations into balance.

Practices that may be incorporated into control strategies for various types of pest include the following:

Noxious weeds:

- Maintain a ground cover of perennial grasses and herbs to reduce the amount of exposed bare soil that is attractive to invasive plant species.
- Utilize mechanical methods (mowing or grazing to keep weeds low without disking or tilling.
- Utilize selective herbicides to target invasive noxious weeds.
- Monitor and manually remove noxious weeds before they become established.

Vertebrate Pests:

- Encourage natural predation by raptors by providing nesting and roosting habitat (ie: barn owl boxes, roosting poles, and rapidly growing trees (eucalyptus) along the north side of the property.
- Slightly elevate base of perimeter fence to allow movement of canine predators.
- Monitor and selectively place rodenticide bait stations to prevent the establishment of large populations particularly along perimeter roads and raise banks.
- Design solar arrays to allow occasional flooding, particularly during periods when large raptor populations are present.

Invertebrate Pests:

- Plant hedgerows of high pollen producing plants and specific host plants that encourage beneficial insects.
- Remove weeds and vegetation that can serve as a host to invertebrate pests.
- Control ant populations with boric acid bait stations around the perimeter of the facility.
- Monitor pest and participate in CDFA/USDA pest monitoring programs to detect target pests.

- Selectively apply insecticides and acaricides to control pest populations before economic injury thresholds are reached us targeted, narrow-range materials whenever possible.

9 The Applicant acknowledges the County's Right to Farm Ordinance and will sign and record a notice prior to the issuance of building permits.

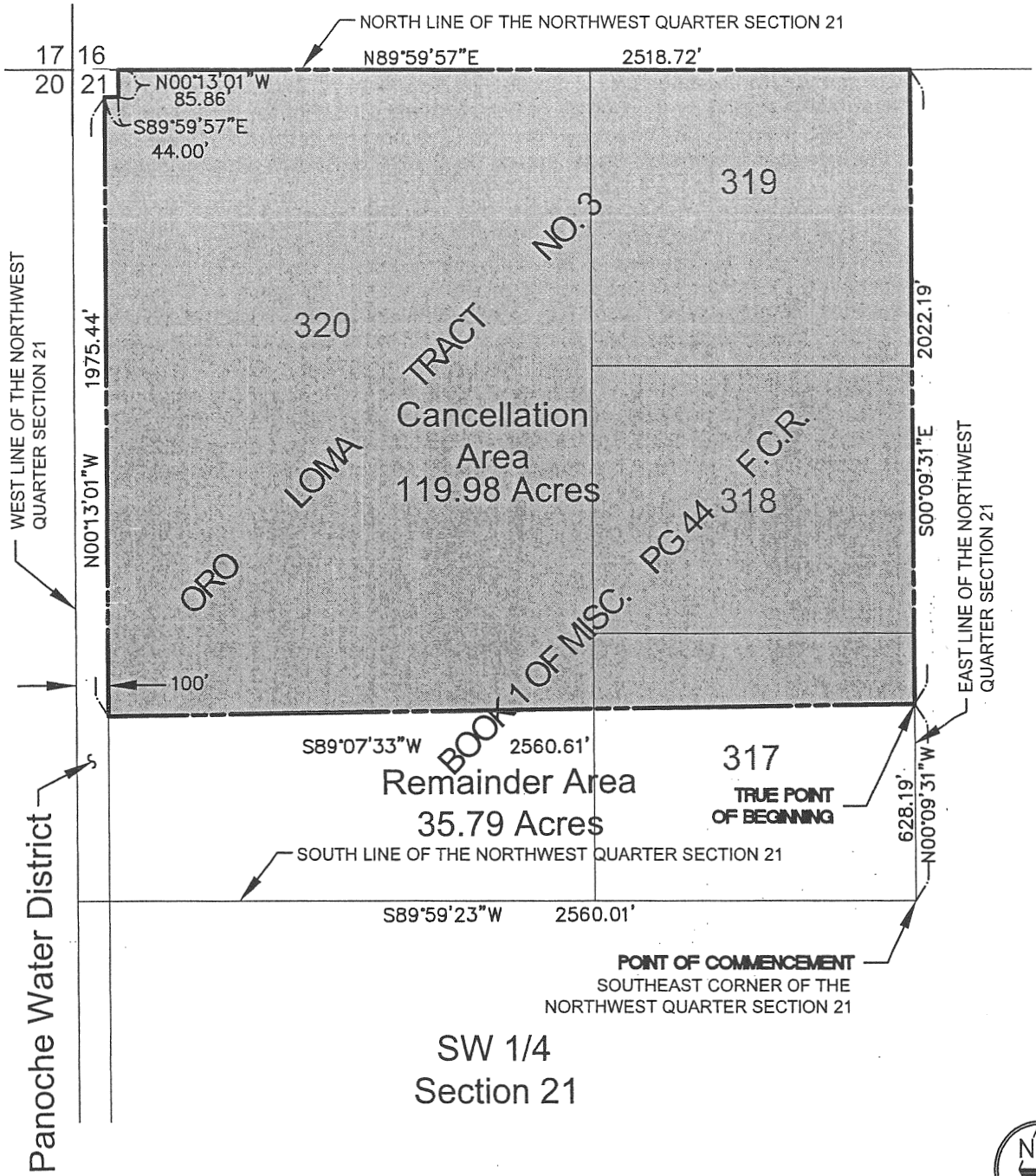
Portion of APN 005-040-17s

That portion of the Northwest quarter of Section 21, Township 12 South, Range 12 East, Mount Diablo Base and Meridian, in the County of Fresno, State of California, also being a portion of Lots 317 to 320, inclusive, of Oro Loma Tract No. 3, according to the map thereof recorded in Book 1, Page 44 of Miscellaneous Maps, Fresno County Records, more particularly described as follows:

Commencing at the Southeast corner of the Northwest quarter of said Section 21; Thence North 00°09'31" West, along the East line of the Northwest quarter of said Section 21, a distance of 628.19 feet to the True Point of Beginning; Thence South 89°07'33" West, a distance of 2560.61 feet to the East line of the West 100.00 feet of the Northwest quarter of said Section 21; Thence North 00°13'01" West, along the East line of the West 100.00 feet of the Northwest quarter of said Section 21, a distance of 1975.44 feet; Thence South 89°59'57" East, a distance of 44.00 feet; Thence North 00°13'01" West, a distance of 85.86 feet to the North line of said Section 21; Thence North 89°59'57" East, along said North line, a distance of 2518.72 feet to the East line of the Northwest quarter of said Section 21; Thence South 00°09'31" East, along the East line of the Northwest quarter of said Section 21, a distance of 2022.19 feet to the True Point of Beginning.

Containing 5,226,489.30 square feet / 119.98 acres.

Dated: 11-14-2011



LARS ANDERSEN & ASSOCIATES, INC
CIVIL ENGINEERS - LAND SURVEYORS - PLANNERS
 4694 WEST JACQUELYN AVE FRESNO, CA 93722
 WWW.LARSANDERSEN.COM 559-276-2790 FAX 559-276-0850

JOB NO: 09033
 DR. BY: RJR
 CH. BY: DRG
 DATE: 11-14-11
 SCALE: 1"=500'

SHEET NO. 1
 OF 1 SHEET

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DEVELOPMENT SERVICES DIVISION

SR Solis Oro Loma, LLC Project Reclamation Plan

1. Description of the Present Use of the Site. If currently vacant/fallow, identify last productive use (agricultural or otherwise).

The Project site, APN 005-040-17S, is approximately 156 acres in size and is owned by Aric & Stacey Barcellos Trustees and Aaron & Jennifer Barcellos Trustees. The site is currently and has historically been farmed for cotton, alfalfa and tomatoes.

2. Describe the proposed alternative use of the land (all equipment to be installed above and underground, structures, fencing, etc.).

The proposed alternative use of the land is a utility scale photovoltaic (PV) solar facility. Approximately 120 acres of the Project site will be utilized for the solar facility and the remainder of the site (approximately 36 acres) will continue in agricultural use and/or provide mitigation land for Swainson hawk. The site will contain approximately 80,000 to 100,000 solar modules; approximately 40 inverter stations; an onsite substation; and a maintenance trailer and small parking facility for operations of the site. The site will be surrounded by an eight (8) foot chain-link fence for safety and security.

3. Duration of the alternate use of the property (specify termination date).

The Project site is under a 35 year lease agreement for use as a PV solar electrical generating facility.

4. Address Ownership of the property (lease or sale).

The property is currently owned by & Stacey Barcellos Trustees and Aaron & Jennifer Barcellos Trustees, and is under a 35-year lease agreement with SR Solis Oro Loma, LLC.

5. Describe how the subject property will be reclaimed to its previous agricultural condition, specifically:

- A. Timeline for completion of reclamation after solar facility lease has termed (identify phasing if needed),
- B. Handling of any hazardous chemicals/materials to be removed,
- C. Removal of all equipment, structures, buildings improvements at and above grade,
- D. Removal of any below grade foundations,
- E. Removal of any below grade infrastructure (cables/lines, etc) that are no longer deemed necessary by the local public utility company,
- F. Detail any grading necessary to return the site to original grade,
- G. Type of crops to be planted,

H. Irrigation system details to be used (existing wells, pumps, etc. should remain throughout the solar facility use).

The reclamation of the site will be completed in one phase and within six (6) months of the discontinued use of the facility.

The first step would be the dismantling and removal of all above ground structures, including the solar modules, stanchions, inverters, transformers, etc. The aboveground structures would be removed from the site, and either disposed of at an appropriate permitted off-site disposal facility or recycling center.

The second step would be the demolition and removal of concrete slabs, footings, etc.. The concrete would most likely be recycled. Anything that could not be recycled would be disposed of at an approved off-site facility.

It is anticipated that all site related piping and utilities, including below ground conduit, and electric, control, communication lines would be completely removed, regardless of the depth below final grade. These materials would be excavated and transported offsite for disposal and/or recycling. The resulting trenches would be backfilled, and the land returned to its existing condition.

The project is not proposing to significantly change the existing grade of the site, and therefore, very little re-contouring would be necessary to achieve pre-project conditions. Once the site is free of all project infrastructure, and the soils have been tilled; the property would be available for agricultural use. It is unknown, at this point, what type of agricultural crop would be planted on the site. The property owner will need to decide what will work for his overall farming operation, at that time.

Surface water currently available to the site is being applied by a drip irrigation system. Prior to the construction of the solar facility, the conservation infrastructure will be removed and relocated to another property within the Barcellos operation; except for the drip tape, which is near the end of its operating life. Irrigation water will continue to be available to the site through the Panoche Drainage District, and will therefore be available after the life of the solar facility for agricultural use.

6. A Site Plan shall be submitted detailing the above.

See attached Reclamation Site Plan.

7. An engineering cost estimate of reclaiming the site to its previous agricultural condition shall be submitted for review and approval.

See attached Engineering Cost Estimate.

8. Financial assurances equal to the cost of reclaiming the land to its previous agricultural condition shall be submitted to ensure the reclamation is performed according to the approved plan. Financial assurances should be made to the County of Fresno and may take the form of cash, letter of credit, or bond that complies with Section 66499 of the California Government Code et. seq.

Financial assurances will be provided to ensure that the Reclamation of the land occurs.

9. Evidence that all owners of record have been notified of the proposed reclamation plan.

The reclamation of the land was included as a part of the lease agreement, signed by the property owners and the Lessee.

DAS ANDERSEN & ASSOCIATES, INC.
 1400 N. MARKET STREET, SUITE 200
 FRESNO, CALIFORNIA 93703
 TEL: 559-435-7800 FAX: 559-435-7801

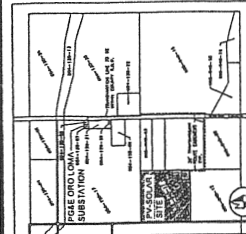
VICINITY MAP

PROPERTY DATA:
 APN: 083-028-017-000
 OWNER: AVONDI BARCELLOS, APIC BARCELLOS & STICHEL BARCELLOS
 PROPERTY AREA: 18.48 ACRES
 DEVELOPER: AVONDI BARCELLOS, APIC BARCELLOS & STICHEL BARCELLOS
 FRONT: 37' (PA)
 SIDE: 37'
 DEPTH: 37'

PREPARED FOR: SR SOLIS ORO LOMA, LLC.
 LITTLETON, CO. 80137

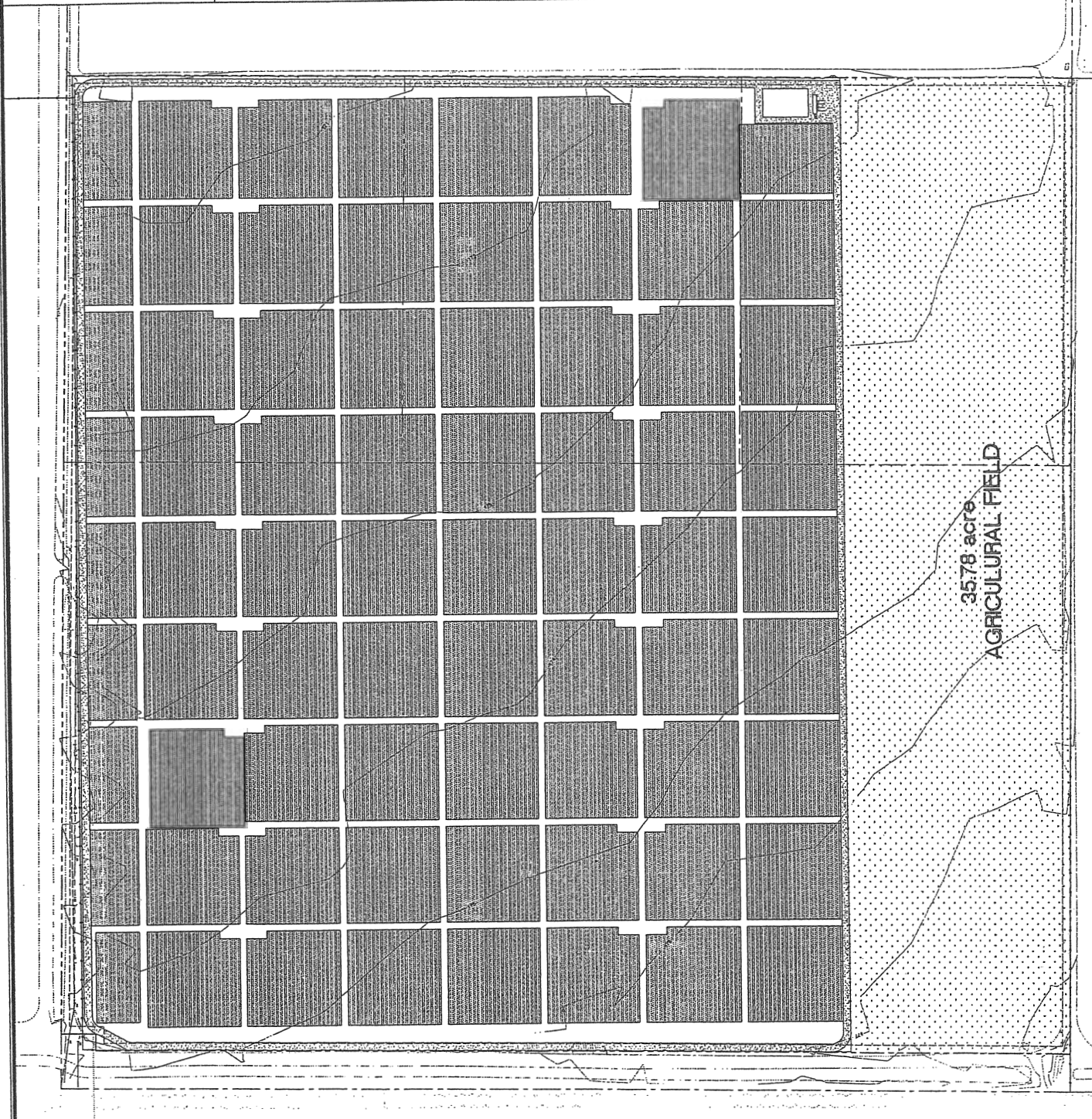
CONTACT:
 NAME: LUIS AVONDI
 PHONE: 559-435-7800
 FAX: 559-435-7801

SCALE: 1" = 100.00 FEET
 SITE COVERAGE: 80% DEVELOPMENT AREA



NOTES:

1. DEVELOPER SHALL REMOVAL ALL PROJECT IMPROVEMENTS, EQUIPMENT AND REMOVAL PROPERTY RECORDS OF WHETHER OR NOT THEY ARE FINALLY AFFIXED TO THE LAND.
2. DEVELOPER SHALL COMPLETE THE REMOVAL OF ALL GROUND PROJECT IMPROVEMENTS, INCLUDING CONCRETE FOUNDATIONS AND PIERIS BELOW GROUND.
3. DEVELOPER SHALL REMOVE ALL ASBESTOS AND LEAD CONTAMINATION OF ANY AND WHEREVER PLACED OR MAINTAINED ON THE PROJECT SITE, THEREON OR WITHIN THE DEVELOPER'S ADJACENT AREAS.
4. HAZARDOUS MATERIALS CONTAMINATION OF THE LAND BY DEVELOPER SHALL BE REMEDIATED IN COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS, WITH APPLICABLE REGULATIONS.
5. THE PROJECT SHALL BE RESTORED TO A LEVEL GRADED CONDITION.
6. DEVELOPER SHALL ABANDON IN PLACE IN THE SAME LOCATION ALL WELLS, PUMPS, EQUIPMENT, ELECTRICAL AND MECHANICAL EQUIPMENT AND TO THE ELECTRICAL EQUIPMENT WASTEWATER FROM THE LAND.
7. RESTORATION FROM PROJECT IMPROVEMENTS REQUIRING REMOVAL FROM THE LAND:
 - a. ANY UNDERGROUND PROJECT IMPROVEMENTS ON ANY IMPROVEMENTS CONSTRUCTED BY OR FOR THE PROJECT SHALL BE REMOVED IN THE SAME MANNER AS THE IMPROVEMENTS WERE GRANTED TO EACH PUBLIC UTILITY COMPANIES.
 - b. ANY PROJECT IMPROVEMENT OR FACILITY THAT INTERFERES WITH THE POTENTIAL REMOVED IMPROVEMENTS OF THE LAND, INCLUDING BUT NOT LIMITED TO THE REMOVAL OF THE REMOVAL OF PROPERTY SITE OCCUPY.



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NOTE:
 This plan is submitted in compliance with the provisions of the Subdivision Map Act, Chapter 664 of the California Government Code, and the provisions of the California Statewide Building Code, Chapter 18.5 of the California Code of Regulations.

SR SOLIS ORO LOMA
 FRESNO COUNTY, STATE OF CALIFORNIA

DATE: 10-10-11
 L.A. PROJECT NO.: 0903300

SCALE: 1" = 100'

RECLAMATION PLAN

SHEET NUMBER
 1 OF 1

Date: June 1, 2011					
PRELIMINARY COST ESTIMATE					
RECLAMATION					
FOR					
SR SOLIS ORO LOMA					
SOLARGEN USA-FRESNO COUNTY, CA					
BASED ON RECLAMATION PLAN DATED 04/21/11					
ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	EXTENSION
1	Mobilization, Insurance & Bonds	1	LS	\$10,000.00	\$10,000.00
2	Traffic Control & Signage	1	LS	\$5,000.00	\$5,000.00
3	Clearing & Grubbing	143.76	AC	\$100.00	\$14,376.00
4	Remove Solar Panel Structure	1	LS		Recyclable
5	Remove Solar Panel Foundation	1	LS	\$100,000.00	\$100,000.00
6	Remove Equipment & Inverter including Concrete Pad	41	EA	\$580.00	\$23,780.00
7	Remove Gravel Road, (Assumed 12" Thick)	194,525	SF	\$1.50	\$291,787.50
8	Remove 8' High Chain Link Fence	10,030	LF	\$4.00	\$40,120.00
9	Remove Access Gate and Security Lighting	1	LS	\$3,200.00	\$3,200.00
10	Remove Portable Office and Restrooms	1.00	LS	\$5,500.00	\$5,500.00
11	Re-Grading (No Compaction)	1	LS	\$132,000.00	\$132,000.00
12	Dust Control	1	LS	\$22,000.00	\$22,000.00
13	Removal of Underground Conduits	1	LS	\$27,400.00	\$27,400.00
14	Permit & Engineering	1	LS	\$32,000.00	\$32,000.00
TOTAL RECLAMATION COST					\$707,163.50
Notes:					
<p>1. This preliminary cost estimate is For DEVELOPER INFORMATION ONLY and is based upon the unapproved plans (or other document) supplied by the Client and upon the preliminary design information the scope of which is subject to potentially significant changes due to the future requirements of reviewing agencies and other factors not known to Lars Andersen & Associates, Inc. This preliminary cost estimate is furnished for budget and comparison purposes only and no guarantee of any kind, expressed or implied, is made beyond the scope of information known to Lars Andersen. A final cost estimate should be prepared when the final agencies requirements are known and construction drawings have been approved by all agencies.</p> <p>2. The unit cost above are based on the 2011-year cost of living.</p>					

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County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER
DIRECTOR

EVALUATION OF ENVIRONMENTAL IMPACTS

APPLICANT: Sr Solis Oro Loma, LLC

APPLICATION NOS.: Initial Study Application No. 6279 and Unclassified Conditional Use Permit Application No. 3297

DESCRIPTION: Allow a photovoltaic solar power generation facility with related improvements including 50-foot high electrical utility poles, twenty 300 square foot inverter buildings, a 8,850 square foot substation and eight-foot high chain-link fencing on an approximately 120.07-acre portion of a 155.85-acre parcel in the AE-20 (Exclusive Agriculture, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located one-half mile to the west of N. Russell Avenue between W. Nees and W. Althea Avenues and approximately 12 miles west of the City of Firebaugh in the Fresno County (SUP. DIST.: 1) (APN: 005-040-17S, 005-040-12S, 005-040-15S).

I. AESTHETICS

- A. Would the project have a substantial adverse effect on a scenic vista; or
- B. Would the project substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway; or
- C. Would the project substantially degrade the existing visual character or quality of the site and its surroundings?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed development occupies an approximately 120.07-acre portion of a 155.85-acre parcel and consists of approximately 100,000 photovoltaic (PV) modules ranging from 200-300 watts per module. The solar modules would be predominantly mounted on low-to-ground fixed support structures. The lower side of each module would be approximately four feet and the higher side would be a maximum of 12 feet in height above ground level. The width of each array (approximately 1,660 -2,500 modules) would be approximately 9 feet with 8.5 feet separation between them.

DEVELOPMENT SERVICES DIVISION

Related facilities include a 8,850 square foot sub-station, forty-two 50-foot high wooden electrical utility poles, twenty 300 square-foot inverter buildings and an eight-foot high chain-link fence around the facility. The proposed facility will produce an estimated 20 Mega Watts (MW) electricity which will be delivered to the Pacific Gas and Electric (PG&E) power grids for use in California.

The project is located on active farm land within an area of agricultural land uses. Parcels adjoining to the to the north, south, east and west of the project site are also farm land and range from approximately 38 acres to 317 acres in size. The closest single-family residence is approximately 2,173 east of the site. The project is not located along a designated Scenic Highway, and no scenic vistas or scenic resources were identified in the analysis.

Apart from 50-foot high utility poles, the proposed facility will have low visibility from the surrounding area. The entire project site will be covered with low-height PV modules (up to twelve-foot in height) which will maintain significant distance from the adjoining properties (minimum 41.1 feet from the north, 610.8 feet from south, 49.2 feet from east and 60 feet from the west property lines). The site will be enclosed with an eight-foot high chain-link fence to provide for security and buffer from the adjoining farm land. Considering the location of the project site in a relatively undeveloped agricultural area of low population density and low visibility, the proposal will not damage any scenic resource or degrade the visual character of the site or its surrounding.

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

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

According to the applicant's operational statement, motion activated lighting will be installed on the project site. Other facilities on the property may also require exterior illumination for surveillance purposes. To address any potential lighting impacts related to light and glare a Mitigation Measure would require that all lighting be hooded and directed as to not shine towards adjacent properties and public streets.

**Mitigation Measure*

1. *All lighting shall be hooded and directed so as not to shine towards adjacent properties and public streets or roadways.*

II. AGRICULTURAL AND FORESTRY RESOURCES

- A. Would the project convert prime or unique farmlands or farmland of statewide importance to non-agricultural use; or
- B. Would the project conflict with existing agricultural zoning or Williamson Act Contracts; or
- C. Would the project conflict with existing zoning for or cause rezoning of forest land, timberland, or timberland zoned Timberland Production; or

- D. Would the project result in the loss of forest land or conversion of forest land to non-forest use; or
- E. Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural uses or conversion of forest land to non-forest use?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The project is not in conflict with agricultural zoning and is allowed by discretionary approval on agriculture land provided it meets applicable General Plan Policies. The project site is classified as Prime Farmland and Farmland of Statewide Importance on the Fresno County Important Farmland Map 2008; is under a Williamson Act Contract (ALCC No. 1425) since February 26, 1970; and has been farmed regularly over the last ten years. Cancellation of the subject Contract was approved by the Agricultural Land Conservation Committee on September 23, 2011 recommending approval to the county Board of Supervisors. The Board will take final action on the cancellation after approval of the subject application by the Planning Commission on a date yet to be determined.

Given the site has been farmed regularly since 2001 from the relative allocation of surface water provided by Panoche Water District, the agricultural nature of the property may be impacted by the proposal in two ways: 1) loss of farmland while the project site is being utilized for solar activities; and 2) impact on agricultural quality of the site.

Loss of farm land resulting from this proposal would be temporary. As noted in the Response to Solar Electrical Generation Facility Guidelines, dated March 2, 2011 and prepared by Provost & Pritchard Consulting Group, in compliance of Item 6 of the Nine-Point Solar Facilities Guidelines approved by the Fresno County Board of Supervisors on May 3, 2011, the site will be restored to agricultural uses at the end of expected 35 years of operation. The Reclamation Plan describes the project lease life and timeline for removal of the improvements and specific measures to return the site to its prior farming capability. As part of the Reclamation Plan, an engineering cost estimate of reclaiming the site to its previous agricultural condition was also submitted by the Applicant. The Fresno County Agricultural Commission (FCAC) reviewed the Applicant submitted Nine-Point Solar Facilities Guidelines information and expressed no concerns with the proposal. The Policy Planning Unit of the Development Services Division who processed the cancellation of Williamson Act Contract on the property also reviewed the information and expressed no concerns with the proposal or cancellation of the Contract.

The site restoration requirements will be included as a Mitigation Measure and stipulated in a covenant between the Applicant/property owner and the County of Fresno. Another Mitigation Measure which pertains to Item 8 of the Reclamation Plan would require that prior to issuance of Building Permits, financial assurances equal to the cost of reclaiming the land to its previous agricultural condition based on an engineering cost estimate prepared by Lars Anderson Associates, LLC, dated June 1, 2011, provided by the Applicant for this proposal shall be submitted to ensure that the reclamation is performed according to the approved Plan.

36-
alcan
120-acres

According to the Nine-Point Solar Guidelines information provided by the Applicant, approximately 126 acres of the site is designated as Farm Land of Statewide Importance and 30 acres as Prime Farm Land. The soil types per the NRCS Soil Survey of West Fresno County (2011) are Dedota Clay covering approximately 76.8 percent of the project site and Chateau Clay covering approximately 23.3 percent of the project site. The land capability of both soils have moderate to severe limitations that restricts the choice of plants to be grown on the property.

Although farmed regularly over the last ten years with water provided by Panoche Water District via drip irrigation system, the site has experienced reductions in water allocations. Actual deliveries of water have ranged from 2.1 af/acre to 2.8 af/acre depending on the crop produced. Given the temporary lose of farm land, and current soils and water supply conditions the proposed PV solar facility which requires far less water usage than a typical farming operation is ideal for the site.

Regarding the potential impacts on agricultural quality of the site, the Fresno County Agricultural Commissioners' Office (Ag Commissioner) stated that the proposed development will create habitat for weed and rodents. Rodents could cause damage to above and underground equipment and an uncontrolled population growth could cause damage to neighboring farmland. Likewise, unchecked weeds can become a fire hazard and can provide for food and cover for rodents.

According to the Ag Commissioner: 1) project development should include a plan to control weeds and rodents within the project area to prevent the site from becoming a nuisance to neighboring properties or surrounding agricultural operations and that any weed or rodent infestation that is of a nature and magnitude as to constitute a "public nuisance" (Section 5551 of the California Food and Agricultural Code; Sections 3479 and 3480 of the Civil Code; and Section 372 of the Penal Code) and is not addressed by the property owner/operator is unlawful under California Food and Agricultural Code Section 5553 and Penal Code Section 372; and 2) the agency shall be contacted regarding control plans and abatement techniques prior to site development. These requirements will be included as project Notes.

Information provided by the applicant on Item 8 of the Nine-Point Solar Guidelines indicates that the applicant is required to maintain, if not enhance, the agricultural quality of the land during the term of the lease while managing pets and noxious weeds. An Integrated Pest Management Plan (IPM) will be developed to monitor and control agricultural pests and noxious weeds with a multi-faceted approach that minimizes the use of chemicals in managing the property. The applicant will hire a certified weed and pest control consultant to develop the IPM Plan and monitor its implementation. These requirements will be included as mitigation measures and are as follows:

**Mitigation Measures:*

1. *The project shall adhere to the procedures listed in the "Response to Solar Electrical Generation Facility Guidelines" dated March 2, 2011 prepared for the operation including requirements for financial estimates, bonding and facility removal when operations cease. Prior to the issuance of any 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 Applicant/ property owner and the County of Fresno and shall run with the land requiring the site to be restored to agricultural uses at the cessation of photovoltaic solar facility operation

2. *Prior to the issuance of any permits, a Pest Management Plan shall be submitted to the Department of Public Works and Planning and approved by the Fresno County Agricultural Commissioner's Office. The Pest Management Plan shall identify methods and frequency to manage weeds, insects, and disease and vertebrate pests that may impact adjacent properties.*
3. *The project operator shall utilize pest control professionals to keep the project site free of rodents at all times.*
4. *The project operator shall at all times keep the project site free of weeds and other vegetation that could harbor pests or become a fire hazard.*

III. AIR QUALITY

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

FINDING: LESS THAN SIGNIFICANT IMPACT:

The San Joaquin Valley Air Pollution Control District (Air District) reviewed the project and in the comments provided on July 8, 2010 and October 21, 2010, required an emissions analysis to determine the project's potential impact on air quality. The Air District also indicated that the project would be subject to District Rule 9510 (Indirect Source Review) as it equals or exceeds 9,000 square feet of other land uses not defined in Section 3.18 of the Rule 9510. All projects subject to District Rule 9510 require submittal of an Air Impact Assessment (AIA) Application to the District no later than applying for the final discretionary approval and pay applicable off-site Mitigation Fees before issuance of the first Grading/Building Permit.

The Applicant submitted an ISR/AIA Application to the Air District on July 27, 2011. The Air District comments provided on October 13, 2011 indicates that: 1) the air quality assessment adequately identifies and quantifies project related emissions and determined that project specific criteria pollutant emissions are expected to have a less than significant adverse impact on air quality; and 2) prior to issuance of buildings, the project shall pay all applicable fees to Air District related to Rule 9510. An AIA Application (ISR No.: C-20110123) was submitted by the Applicant to the Air District. The District deemed AIA Application (ISR No.: C-20110123) complete on August 4, 2011 and approved it on August 31, 2011. The project will be subject

to payment of all applicable fees to Air District prior to issuance of Building Permits. This will be included as a project Note.

Other Air District rules that would apply to this proposal include: District Regulation VIII – Fugitive Dust Rules, to address impacts related to PM-10, Rule 4102 (Nuisance), to address any source operation that emits air contaminants or other materials, Rule 4601 (Architectural coatings), and Rule 4641 (Cutback, Slow, Cure, and emulsified Asphalt, Paving and Maintenance Operations). To be included as project Notes, adherence to these Rules and the aforementioned Condition of Approval will reduce air-related impacts to a less than significance level.

E. Would the project create objectionable odors affecting a substantial number of people?

FINDING: NO IMPACT:

The project will not create objectionable odor where it can affect people in the area.

IV. BIOLOGICAL RESOURCES

- A. Would the project have a substantial adverse effect, either directly or through habitat modifications, on any candidate, sensitive, or special-status species; or
- B. Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game (CDFG) or U.S. Fish and Wildlife Service (USFWS); or
- C. Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption or other means; or
- D. Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites; or
- E. Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- F. Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local regional, or state Habitat Conservation Plan?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The project was routed to the U.S. Fish and Wildlife Service (FWLS) and the California Department of Fish and Game (DFG) for review and comment. In the comment provided on June 28, 2010, FWLS indicated that the project will have no effect on federally threatened and endangered species and expressed no other concerns with the proposal. However, DFG in the comments provided on June 2, 2011, expressed need for a Swainson's Hawk nesting surveys prior to construction of the project and providing adequate buffer around active nests during bird nesting period. Given DFG comments, implementation of the following mitigation

Evaluation

measures would reduce potential impacts to on-site foraging and nesting Swainson's Hawk to a less than significant level.

**Mitigation Measures:*

1. *To mitigate potential impacts to on-site foraging and nesting Swainson's Hawk (Hawk), the applicant shall have a qualified ornithologist survey the site during Hawk nesting season prior to project construction in accordance with the "Swainson's Hawk Technical Advisory Committee's Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys" dated 2000. In addition to pre-construction nesting surveys the applicant shall:*
 - a. *Adhere to the ½ mile buffer around active nests during the nesting season which prohibit project-related construction within the buffer of active nests, should they be found.*
 - b. *Work closely with the California Department of Fish & Game (CDF&G) including insuring that the qualified individual retained to conduct survey work contact CDF&G prior to and upon completion of the surveys to insure the most current surveying procedures are implemented and that the need for an Incidental Take Permit is discussed with that agency.*
 - b. *Proof that adequate survey work was completed in consultation with CDF&G shall be provided to the County of Fresno's Department of Public Works & Planning.*

Being active farm land, the project site does not contain any drainage features under the jurisdiction of the Army Corps of Engineers, California Department of Fish and Game or Regional Water Quality Control Board, isolated wetland features or vernal pools. The project will not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clear Water Act through direct removal, filling, hydrological interruption, or other means and will not require regulatory permits for impacts to drainage features. In addition, the project site is surrounded by active farmlands and does not provide for regional wildlife movement and the proposed development will not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. Further, the proposal will not conflict with any local policies or ordinances protecting biological resources or any provisions of an adopted Habitat Conservation Plan.

V. CULTURAL RESOURCES

- A. Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5; or
- B. Would the project cause of substantial adverse change in the significance of an archeological resource pursuant to Section 15064.5; or
- C. Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or

- D. Would the project disturb any human remains, including those interred outside of formal cemeteries?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The project site is not located within proximity of any area designated to be highly or moderately sensitive for archeological resources. However, in the event that cultural resources are unearthed during grading or construction, 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 construction, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and disposition of the remains. If such remains are determined to be Native American, the Coroner must notify the Native American Commission within 24 hours. A Mitigation Measure reflecting this requirement has been incorporated into the project. The Mitigation Measure will reduce potential impacts to cultural resources to a level of insignificance.

**Mitigation Measure:*

1. *In the event that cultural resources are unearthed during grading 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 construction, 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.*

VI. GEOLOGY AND SOILS

- A. Would the project expose people or structures to potential substantial adverse effects, including risk of loss, injury or death involving:

1. Rupture of a known earthquake?
 - (a.) Strong seismic ground shaking?
 - (b.) Seismic-related ground failure, including liquefaction?
 - (c.) Landslides?

FINDING: NO IMPACT:

The area is designated as Seismic Zone 3 in the California Geological Survey. No agency expressed concerns or complaints related to ground shaking, ground failure, liquefaction or landslides. The proposed development will be subject to the Seismic Zone 3 Standards.

- B. Would the project result in substantial erosion or loss of topsoil?

FINDING: NO IMPACT:

The project site is relatively flat with a slight grade from north to south. No significant grading activities are expected of this proposal.

The site would require minimal grading in the areas where the PV modules, inverter pads, substation, and an 18-foot wide access road around the perimeter of the site would be located. A little re-contouring would be necessary to achieve pre-project conditions. Once the site is free of all project infrastructures, and the soils have been tilled, the property would be available for agricultural use.

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

FINDING: NO IMPACT:

The project is not located within an area of known risk of landslides, lateral spreading, subsidence, liquifaction, or collapse, or within an area of known expansive soils.

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

FINDING: NO IMPACT:

The facility operations will not generate any solid or liquid waste. Workers responsible for maintaining and monitoring the facility operations on a regular basis will utilize a portable maintenance trailer to be placed on the property. As noted by the Fresno County Department of Public Health, Environmental Health Division, an on-site sewage disposal system will be required for the trailer and the site soil conditions can be accommodate the system. This will be included as a project Note.

VII. GREENHOUSE GAS EMISSIONS

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

FINDING: LESS THAN SIGNIFICANT IMPACT:

The San Joaquin Valley Air Pollution Control District (Air District) reviewed the project and expressed no concerns regarding Greenhouse Gas Emissions. As discussed above in Section III of this analysis, compliance with the Air District Rules will reduce air quality impacts to a less than significant level. The proposed use is a relatively passive use and will be built over a one to two year period depending upon the interconnection and power sale timing. The project implementation will provide a relatively emission-free mechanism for generating power to be

placed on the PG & E power grid. According to the Applicant's Operational Statement, the life expectancy of the project is 35 years.

VIII. HAZARDS AND HAZARDOUS MATERIALS

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

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to the information provided by the Applicant, the proposed facility will not produce, transport, or release any hazardous waste into the environment.

The Fresno County Department of Public Health, Environmental Health Division (Health Department) reviewed the project and requires that: (1) prior to occupancy, the Applicant shall submit either a Hazardous Materials Plan or a Business Exemption form; (2) all hazardous waste shall be handled in accordance with the requirements set forth in the California Health and Safety Code, Chapter 6.5; 3) a Permit to Construct Water Well shall be obtained for any well to be drilled on the property; and 4) should any underground storage tank(s) be found during the project, the applicant shall obtain an Underground Storage Tank Removal Permit.

- C. Would the project emit hazardous emissions or handle hazardous materials, substances or waste within one-quarter mile of a school; or
- D. Would the project be located on a hazardous materials site?

FINDING: NO IMPACT:

The project is not within one-quarter mile of a school or sits on a hazardous materials site.

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

FINDING: NO IMPACT:

The project site is not within the area of any clear zone or other imaginary surface of a public use airport as described under Federal Aviation Regulation (FAR) Part 77, or within an identified airport noise contour, or in the vicinity of a private airstrip.

- G. Impair implementation of or physically interfere with an adopted Emergency Response Plan or Emergency Evacuation Plan?

FINDING: NO IMPACT:

The project will not impair implementation of or physically interfere with an adopted Emergency Response Plan.

- H. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

FINDING: NO IMPACT:

The project is not located within a wildland fire area.

IX. HYDROLOGY AND WATER QUALITY

- A. Would the project violate any water quality standards or waste discharge requirements or otherwise degrade water quality; or
- B. Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge so that there would be a net deficit in aquifer volume or a lowering of the local groundwater table?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project will not degrade ground water quality or deplete ground water supplies.

No on-site office is proposed for the project. The project will not impact ground water quality as no individual septic system is proposed for the facility. According to the information provided by the applicant, water for construction and operations of the facility will be provided by the City of Firebaugh. The water will be trucked in for periodic washing of the photovoltaic (PV) modules which is to occur twice a year for 10-days (20 days per year) and an approximately two-acre foot of water per year would be required for panel washing.

The Fresno County Department of Public Health, Environmental Health Division (Health Department) reviewed the project and indicated that in the case where an on-site office is proposed on the property, the operator shall at all times provide a potable water source for plumbing fixtures which is deemed acceptable by the Fresno County Department of Public Health, Environmental Health Division and the Fresno County Department of Public Works and Planning. This will be included as a project note.

The Fresno County Water-Geology Natural-Resources Section (WGNR) also reviewed the project and expressed no concerns with the proposal based on the fact that water for the project will be provided by an off-site supplier.

The project was also routed to the California Regional Water Quality Control Board (RWQCB) for review and comments. No concerns were expressed by that Agency.

- C. Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off-site; or
- D. Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in flooding on or off-site?

FINDING: NO IMPACT:

No streams or rivers exist on the project site. Ponoche Water District canal which runs along westerly property line will not be impacted by this proposal.

- E. Would the project create or contribute run-off which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted run-off?

FINDING: LESS THAN SIGNIFICANT IMPACT:

This proposal may cause changes in absorption rates, drainage patterns, or an increase in the rate and amount of surface run-off. Potential run-off, flooding, erosion, and siltation effects are not considered significant because the proposed development would require adherence to mandatory construction practices contained in the Grading and Drainage Sections of the County Ordinance Code.

Development Engineering Section of the Department of Public Works and Planning reviewed the project and indicates that: 1) any additional stormwater run-off generated by the proposed development cannot be drained across property lines and must be retained on-site per County Standards; 2) an Engineered Grading and Drainage Plan will be required to show how additional stormwater run-off generated by the proposal development will be handled without adversely impacting adjacent properties; and 3) a Grading Permit or Voucher will be required for any grading proposed with this application. These mandatory requirements will be included as project Notes.

- F. Would the project otherwise substantially degrade water quality?

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion above in IX. A & B.

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

FINDING: NO IMPACT:

According to FEMA FIRM Panel 0950 H and 1400 H, the project site is not subject to flooding from the 100-year storm.

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

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

FINDING: NO IMPACT:

The subject site is not prone to a seiche, tsunami or mudflow, nor is the project exposed to potential levee or dam failure.

X. LAND USE AND PLANNING

A. Will the project physically divide an established community?

FINDING: NO IMPACT:

The project is outside the boundaries of any city or unincorporated community.

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

FINDING: LESS THAN SIGNIFICANT IMPACT:

The site is designated Agriculture in the Fresno County General Plan which allows certain non-agricultural uses such as the proposed use by discretionary approval provided that the use meets General Plan Policy LU-A.3., criteria a. b. c. d.

In the case of this application, the project: 1) will operate more efficiently in a non-urban area due to the availability of large undeveloped land and the nature of the operation which requires a large parcel to cover the panel arrays; 2) will be located on farm land in an area where no less productive agricultural land is available in the vicinity; 3) will not utilize groundwater and therefore will not impact the area aquifer; and 4) will have work force available nearby in the City of Firebaugh. The proposal would meet the aforementioned General Plan Policy.

Policy LU-A.12 requires agricultural activities to be protected from encroachment of incompatible uses, Policy LU-A.13 requires buffers between proposed non-agricultural uses and adjacent agricultural operations and Policy LU-A.14 requires assessment of the conversion of productive farmland and that mitigation shall be required where appropriate. In this instance: 1) the entire 120-acre portion of a 155.85-acre parcel to occupy the proposed facility will be enclosed with an eight-foot high chain-link fence to separate the use from adjoining farm land; 2) PV modules will be setback at minimum 41.1 feet from the northern property line, 610.8 feet from southern property line, 49.2 feet from eastern property line and 60 feet from the western property line of the subject property to provide significant separation between the proposed improvements and adjoining farm land; and 3) a Restoration Plan will be required for restoration of the property back to farming operations after the facility operations cease.

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

FINDING: NO IMPACT:

The project will not conflict with the provisions of any adopted Habitat Conservation Plan or Natural Community Conservation Plan.

XI. MINERAL RESOURCES

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

FINDING: NO IMPACT:

No mineral resource impacts were identified in the analysis. The site is not located in an identified mineral resource area identified in Policy OS-C.2 of the General Plan.

XII. NOISE

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

FINDING: LESS THAN SIGNIFICANT IMPACT:

The Fresno County Department of Public Health, Environmental Health Division reviewed the project and did not identify any potential noise-related impacts. However, the project will be subject to conformance with the Fresno County Noise Ordinance related to construction noise limiting noise-generating construction activities to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 7:00 a.m. to 5:00 p.m. Saturday and Sunday. This will be included as a project Note.

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

FINDING: NO IMPACT:

See discussion above in Section VIII. E. F.

XIII. POPULATION AND HOUSING

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

FINDING: NO IMPACT:

The project will not construct or displace housing and will not otherwise induce population growth.

XIV. PUBLIC SERVICES

- A. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered public facilities in the following areas:
 - 1. Fire protection?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Fresno County Fire Protection District (CalFire) review of the project did not identify any concerns with the proposal. The project will comply with 2007 California Code of Regulations Title 24 – Fire-Code and County approved site plans will be required to be approved by the Fire District prior to issuance of building permits by the County. This will be included as a project Note and will be addressed through Site Plan Review recommended as a Condition of Approval.

- 2. Police protection; or
- 3. Schools; or
- 4. Parks?

FINDING: NO IMPACT:

The project will not result in the need for additional public services related to police, schools and parks.

- 5. Other public facilities?

FINDING: NO IMPACT:

Electric transmission for the project would be provided by a new interconnection from the solar facility site to the PG & E Oro Loma Substation on Russell Avenue, located on the west side of the Russell Avenue approximately one-mile northeast of the project site. Transmission line will be located within a 30-foot easement within private properties and public right of way along Russell Avenue. The transmission line would traverse along the southern 650 feet of the eastern boundary of the project site, from the southeast corner of the site to the east to Russell Avenue within 317- acre parcel (APN: 005-040-12), along the western boundary of 527-acre parcel (APN: 005-040-15S) and within Russell Avenue road right-of-way to Oro Loma Substation. The project was routed to PG & E and no concerns were expressed by that Agency.

XV. RECREATION

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

FINDING: NO IMPACT:

No impacts on recreational resources were identified in the analysis.

XVI. TRANSPORTATION/TRAFFIC

- A. Would the project conflict with any applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system taking into account all modes of transportation; or
- B. Would the project conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demands measures?

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to the applicant's operational statement, it is anticipated that project construction would require approximately three construction equipment delivery trips and 150 construction worker trips per day during the eight non-continuous months of construction. The project operations and maintenance would require approximately 264 trips per year. This includes up to eight (8) trips per day during the 20-days of panel washing per year and approximately two trips per week for any security or maintenance issues, averaging 0.72 trips per day over a year

According to the applicant's Operational Statement, the project site would be accessible via a private driveway and gate located at the southeast corner of the property. The 30-foot wide easement with transmission line will be used to access the property from Russell Avenue.

The County Design Division of the Department of Public Works and Planning reviewed the project and expressed no concerns regarding the carrying capacities of the adjacent roadways and required no Traffic Impact Study.

C. Would the project result in a change in air traffic patterns?

FINDING: NO IMPACT:

The project will not result in a change in air traffic patterns.

D. Would the project substantially increase traffic hazards due to design features; or

E. Would the project result in inadequate emergency access?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Access to the site will be provided from Russell Avenue, at the location of the proposed transmission line alignment intersection with Russell Avenue. The existing dirt road at that location will be improved with gravel, and will provide the main access for the project site.

The County Design Division and Development Engineering Section of the Department of Public Works and Planning reviewed the project and did not identify any concerns with respect to increased traffic hazards or emergency access except that: 1) any improvement to provide access to county maintained roads such as Russell Avenue from the parcel will require a plan and approval to coincide with issuance of an encroachment permit; and 3) Russell Avenue bridge is slated for replacement and will be closed for extended lengths of time. The applicant shall contact the Design Division and coordinate their construction schedule with the anticipated construction for replacement of the structure on Russell Avenue. These requirements will be included as project Notes.

F. Would the project conflict with adopted plans, policies or programs regarding public transit, bicycle or pedestrian facilities or otherwise decrease the performance or safety of such facilities?

FINDING: NO IMPACT:

The project will not conflict with any adopted alternative transportation plans.

XVII. UTILITIES AND SERVICE SYSTEMS

A. Would the project exceed wastewater treatment requirements; or

B. Would the project require construction of or the expansion of a new water or wastewater treatment facilities?

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion above in Section IX. A. B. The proposed development will not require on-site sewage disposal systems or utilize groundwater.

C. Would the project require or result in the construction or expansion of new stormwater drainage facilities?

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion above in Section IX. E. The project will adhere to the Grading and Drainage Section of the County Ordinance Code.

- D. Would the project have sufficient water supplies available from existing entitlements and resources, or are new or expanded entitlements needed; or
- E. Would the project result in a determination of inadequate wastewater treatment capacity to serve project demand?

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion above in Section IX. A. B.

- F. Would the project be served by a landfill with sufficient permitted capacity; or
- G. Would the project comply with federal, state and local statutes and regulations related to solid waste?

FINDING: NO IMPACT:

The facility operations will not impact area landfills. The facility will not generate solid waste to be hauled off to local area landfills.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

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

FINDING: LESS THAN SIGNIFICANT IMPACT:

Construction of the project may impact sensitive biological and cultural resources. Included Mitigation Measures in Section IV A. B. C. D. E. F. and Section V. A. B. C. D. will minimize such impacts to less than significant.

- B. Does the project have impacts that are individually limited, but cumulatively considerable?

FINDING: LESS THAN SIGNIFICATION IMPACT:

The project will adhere to the permitting requirements and rules and regulations set forth by the Fresno County Grading and Drainage Ordinance, San Joaquin Air Pollution Control District, and California Code of Regulations Fire Code. No cumulatively considerable impacts were identified in the analysis other than Aesthetics, Agricultural and Forestry Resources, and

Biological Resources that will be addressed with the mitigation measures discussed in Section I. D., Section II. A. B. C. D. E. and Section IV. A. B. C. D. E. F.

C. Does the project have environmental impacts which will cause substantial adverse effects on human beings, either directly or indirectly?

FINDING: NO IMPACT:

No substantial adverse impacts on human beings were identified in the analysis.

CONCLUSION/SUMMARY

Based upon the Initial Study prepared for Unclassified Conditional Use Permit Application No. 3297 staff has concluded that the project will not have a significant effect on the environment. It has been determined that there will be no impacts to geology and soils, mineral resources, population and housing, and recreation.

Potential impacts related to air quality, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, transportation/traffic, utilities and service systems and mandatory findings of significance have been determined to be less than significant.

Potential impacts to aesthetics, agriculture and forestry resources, biological resources, and cultural resources have been determined to be less than significant with the identified Mitigation Measures.

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

EJ:

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**REQUIRED FINDINGS NECESSARY FOR GRANTING
A CONDITIONAL USE PERMIT APPLICATION
AS SPECIFIED IN ZONING ORDINANCE SECTION 873**

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.
2. That the site for 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.
3. That the proposed use will have no adverse effect on abutting property and surrounding neighborhood or the permitted use thereof.
4. That the proposed development is consistent with the General Plan.

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November 3, 2011

Delivered via email to eahmad@co.fresno.ca.us
Hard copy to follow via USPS

Ejaz Ahmad, Planner
Fresno County Development Services Division, Current Planning Unit
2220 Tulare Street, Sixth Floor
Fresno, CA 93721

RE: SR Solis Oro Loma Solar Project – Initial Study Application No. 6279 and Unclassified Conditional Use Permit Application No. 3297

Dear Mr. Ahmad:

Thank you for the opportunity to comment on the SR Solis Oro Loma Solar Project (Project). These comments are submitted on behalf of Defenders of Wildlife (Defenders) and our more than one million members and supporters in the United States, 200,000 of which reside in California.

Defenders is dedicated to protecting all wild animals and plants in their natural communities. To that end, Defenders employs science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions in order to prevent the extinction of species, associated loss of biological diversity, and habitat alteration and destruction.

Defenders strongly supports the emission reduction goals found in the Global Warming Solutions Act of 2006 (AB 32), including the development of renewable energy in California. However, we urge that in seeking to meet our renewable energy portfolio standard in California, project proponents design their projects in the most sustainable manner possible. This is essential to ensure that project approval moves forward expeditiously and in a manner that does not sacrifice our fragile landscapes, prime agricultural lands and wildlife in the rush to meet our renewable energy goals.

As we transition toward a clean energy future, it is imperative for our future and the future of our wild places and wildlife that we strike a balance between addressing the near term impact of industrial-scale solar development with the long-term impacts of climate change on our biological diversity, fish and wildlife habitat, natural landscapes, and productive prime agricultural lands.

The proposed Project would be a substantial photovoltaic (PV) solar power plant located on a 120.07± acre portion of a 155.85± acre parcel. The Project would be located approximately 12 miles west of the City of

California Program Office
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Sacramento, CA 95814
Telephone 916-313-5800
Fax 916-313-5812
www.defenders.org/california

Firebaugh between West Nees and West Althea Avenues and one-half mile west of North Russell Avenue in an unincorporated portion of western Fresno County (County). The Project site soils are classified as Prime and Farmland of Statewide Importance, the land has been actively farmed since at least 2001, and it is in the Williamson Act.

The proposed Project is comprised of 100,000± single axis tracking solar PV panels. The power plant is expected to generate approximately 20 megawatts. The proposed Project includes 50-foot high electrical utility poles, twenty 300 square foot inverter buildings, and an 8,850 square foot substation. The entire project site will be fenced with an eight foot tall chain link fence and internal access roads for maintenance and operations will be constructed.

These comments are in response to the County's proposed Initial Study and Mitigated Negative Declaration (IS/MND). Defenders has reviewed the October 21, 2011 IS/MND and finds the draft IS/MND is deficient. The IS/MND will expose the project to potential challenges if adopted as currently drafted. Some of the key deficiencies are:

Project Description

The Project is described in the IS/MND as: *"Allow a photovoltaic solar power generation facility with related improvements including 50-foot high electrical utility poles, twenty 300 square foot inverter buildings, a 8,850 square foot substation and eight-foot high chain-link fencing on approximately 120.07-acre portion of a 155.85-acre parcel in the AE-20 (Exclusive Agriculture, 20 acre minimum parcel size) Zone District."*

Per Section 15003h of the CEQA Guidelines (h) *"The lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect."* And Section 15063(a)(1) requires *"All phases of project planning, implementation, and operation must be considered in the initial study of the project."*

The Project description does not provide the necessary information to understand the scope of the project such as the number, dimensions and height of the solar PV panels; water use and source; or facility operations. Although the description does mention electrical utility poles it does not identify the location or distance of the presumed transmission line which would connect the Project to PG&E's system. It also does not describe existing land uses of the Project site, the property's characteristics such as soils, topography or any improvements.

The Project description also did not include a location map, site plan or basic project schematics. This lack of basic information limits agencies, the public and decision makers' ability to quickly and easily understand the project. Without a complete project description the whole of the project cannot be considered and the draft IS/MND is insufficient for decision making.

Biological Resources

A Biotic Constraints Analysis prepared by HT Harvey was submitted to the County in June 2010 and a proposed Swainson's hawk mitigation strategy was submitted to the County in

May 2011 for this project. This information was not referenced or used for the preparation of the IS/MND. According to the Biotic Constraints Analysis the proposed Project site would impact San Joaquin kit fox, burrowing owls, and Swainson's hawks.

The Section 15074(b) of the CEQA Guidelines requires that decisions be based upon substantial evidence "...*The decision making body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency's independent judgment and analysis.*"

Section 15384 defines substantial evidence as "(a) *"Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.*

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

The IS/MND prepared for this project lacks even the most basic analysis provided by the Biotic Constraints Analysis and lacks the standard mitigation recommended by the Biotic Constraints Analysis for San Joaquin kit fox, burrowing owls, and Swainson's hawks. The IS/MND only requires pre-construction surveys and buffering for Swainson's hawk and also lacks the recommended mitigation for the loss of foraging habitat per California Department of Fish and Game's (CDFG) requirements.

Given the lack of biological analysis and required mitigation measures, the IS/MND is deficient and will expose the project to potential challenges if adopted as currently drafted. We recommend that the IS/MND be revised and recirculated to address these problems. At minimum, the mitigation measures must be revised to include the standard mitigation for San Joaquin Kit Fox, burrowing owl and the Swainson's hawk foraging habitat.

San Joaquin Kit Fox

The proposed project is located within San Joaquin kit fox territory – a federally listed endangered species. The San Joaquin kit fox is one of the most endangered species in California. The one day biological reconnaissance did not observe any kit fox. However, without protocol level study the absence of the kit fox cannot be confirmed. It must be noted that the United States Fish and Wildlife Service (USFWS) recently required adherence to standardized San Joaquin kit fox mitigation measures for another smaller solar PV project located in western Fresno County.

The 2009 HT Harvey Biotic Constraints Analysis states that "implementation of standard take avoidance measures... likely to be a condition of approval" would result in San Joaquin

kit fox being only a minor constraint to the development of the site. Those standard measures were included in Appendix D of the Biotic Constraints Analysis. The IS/MND does not address San Joaquin kit fox and does not include the standard avoidance and minimization mitigation measures referenced in the Biotic Constraints Analysis.

The proposed IS/MND should be revised to include the standard mitigation measures established by the USFWS in their “Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance.”

Further, given that this project is within San Joaquin kit fox range, kit fox could utilize this area for movement between territories. Therefore, at a minimum, this site should be designed for kit fox movement. Unfortunately, the proposed project includes a chain link security fence with no apparent design to provide for movement. This represents a significant barrier to wildlife. The security fence must be designed to be wildlife friendly and allow safe passage of San Joaquin Valley kit fox. We recommend that the bottom of the security fence be raised 5-7 inches off the ground and knuckled along the entire perimeter of the project, thereby permitting easy under-passage by foxes at any location. This fence design is compatible with the latest recommendations by the USFWS in biological opinions issued for two solar projects within the Carrizo Plains. (The biological opinion for the Topaz PV project is attached.)

Burrowing Owl

The proposed Project site is within the breeding and wintering range of the burrowing owl. The burrowing owl is designated by the CDFG as a “species of special concern” and is also protected pursuant to Section 3503.5 of the State Fish and Game Code and the Federal Migratory Bird Treaty Act.

According to the HT Harvey Biotic Constraints Analysis, the margins of the proposed Project site provides suitable habitat for burrowing owls. The one day biological reconnaissance did not observe any burrowing owl. However, without protocol level study the absence of the burrowing owls cannot be confirmed. The Biotic Constraints Analysis states “*In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG recommendation for burrowing owls (CDFG 1995, CBOC 1997) would need to be completed prior to land conversion.*” It goes on to state that all ground squirrel colonies would need to be mapped and provides mitigation measures adapted from CDFG’s 1995 *Staff Report on Burrowing Owl Mitigation* (attached)

This information was ignored by the IS/MND. Per Section 15002(a) of the CEQA Guidelines “*The basic purposes of CEQA are to: (1) Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.*” The fundamental purpose of CEQA is to identify and disclose potential environmental impacts to allow the public and decision makers. The IS/MND again does not meet that most basic purpose.

Without the inclusion of the standardized mitigation language promulgated by CDFG since 1995, a finding of “Less Than Significant Impact with Mitigation” cannot be substantiated.

Swainson's Hawk

The Swainson's hawk is designated by the CDFG as "threatened" and is also protected pursuant to Section 3503.5 of the State Fish and Game Code and the Federal Migratory Bird Treaty Act. The proposed Project site is within the breeding range of Swainson's hawk and provides foraging habitat for the hawk and other raptors. In 2009, five Swainson's hawk nest were actively occupied within 5 miles of the proposed Project site. CDFG's 1994 Report on Mitigating Impacts to Swainson's Hawks (attached) provides standards for impact avoidance, minimization and mitigation. While the IS/MND requires a pre-construction survey and buffering around nests, it does not include the rest of the standardized, routinely instituted mitigation for Swainson's hawks including required compensatory mitigation for loss of foraging habitat. This information was in the HT Harvey Biotic Constraints Analysis (Appendix C) and, again, was ignored by the IS/MND. The IS/MND needs to be revised to include the standard mitigation for Swainson's hawk provided in CDFG's 1994 report.

Perpetuity

The applicant's proposed strategy for mitigating impacts to Swainson's hawks was also submitted to staff and also not addressed in the IS/MND. We appreciate the applicant's acknowledgment and leadership in addressing the need to mitigate for loss of foraging habitat. We have two concerns with the applicant's mitigation proposal: 1) location of mitigation lands and 2) term of mitigation.

In order to achieve nexus the mitigation land should be in proximity to the resource impacted by the proposed project. In this case, the mitigation lands should be located near the five Swainson's hawks located within 5 miles of the proposed Project. The lands proposed near Los Banos would not achieve that goal.

The mitigation proposal contemplates the use of leased land rather than the standard requirement of conservation easement or fee title protection of the mitigation land. The applicant argues that the land would be converted back to agricultural land "if/when" the Project becomes obsolete. The "if" is the issue. While the site restoration requirements provide that the Project site be reclaimed should the land no longer be used as a solar facility, there is no requirement that the project cease operations at the end of its lease. Nor is there any requirement for additional review should the lease be extended beyond its current term. Given California's ever increasing need for energy, it should be expected that these solar power plants will be updated and will be continued to be used far into the future past the initial lease term. No mechanism exists to ensure that mitigation for biological resources or loss of farmland can be acquired 35 years in the future when it is found that the conversion of this land is in fact not temporary.

Conclusion

Although Planning staff has indicated that they are having difficulty obtaining comments and direction from the Responsible Agencies, the lack of input from Responsible Agencies does not relieve the County as the CEQA Lead Agency from its responsibilities to ensure that potential impacts are identified and mitigated as required by law. The standard avoidance, minimization, and mitigation measures for these species has been promulgated by the US

Fish and Wildlife Service and the California Department of Fish and Game and are readily available.

Given the above, Defenders requests the IS/MND be revised to address these deficiencies and be recirculated prior to the Project being scheduled for hearing with the County Planning Commission. This request is not made lightly and believe the applicant has been put at a disadvantage by staff not including the results of the Biotic Constraints Analysis in the IS/MND. We strongly support our State's goals for renewable energy. We are disappointed that we cannot support the SR Solis Oro Loma Solar Project at this time due, not to the merits of the Project, but rather to the deficient IS/MND.

We look forward to reviewing the revised IS/MND and request to be notified when it is available. Thank you once again for the opportunity to provide comments on the SR Solis Oro Loma Solar Project and for considering our comments. If you have any questions, please contact Kate Kelly at (530) 902-1615 or via email at kate@kgconsulting.net.

Respectfully submitted,



Kim Delfino
California Program Director

Attachments: US Fish and Wildlife Service's Biological Opinion on the Proposed Topaz Solar Farm, San Luis Obispo County, July 2011

CA Department of Fish and Game Staff Report on Burrowing Owl Mitigation, 1995

CA Department of Fish and Game Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo swainsoni*) in the Central Valley of California, 1994

Cc: Carmine Iadarola, SR Solis
Susan Gladding, Provost and Pritchard
Bill Geyer, Geyer Associates
Bernard Jimenez, Fresno County Development Services
Will Kettler, Fresno County Development Services
Chris Motta, Fresno County Development Services
Thomas Leeman, USFWS
Craig Bailey, CDFG

Motta, Chris

From: Friends of the Swainson's Hawk <swainsonshawk@sbcglobal.net>
Sent: Monday, November 07, 2011 3:09 PM
To: Ahmad, Ejaz; Motta, Chris
Cc: Kate Kelly
Subject: IS APP 6279 AND USE PERMIT 3297 - SR SOLIS ORO LOMA, LLC
Attachments: DFGGuidelines94.pdf; SwainsonsHawkProtocol6-2-10.pdf

To:
Ejaz Ahmad, Planner
Development Services Division
Fresno County Department of Public Works and Planning

Dear Mr. Ahmad

I am reviewing your Notice of Intent To Adopt a Mitigated Negative Declaration

- Environmental Checklist Form and Evaluation of Environmental Impacts for IS APP 6279 AND USE PERMIT 3297 - SR SOLIS ORO LOMA, LLC.

Your IS/MND states that there is a letter from DFG which is not appended to the document. Your document states that DFG did not indicate that mitigation for foraging habitat is needed. Please forward that letter to me.

I think there may be a conflict between DFG policy as stated elsewhere and this letter.

For example, the CDFG 1994 staff memorandum describing mitigation for Swainson's Hawk impacts recommends mitigation for loss of foraging habitat. See appended document.

Also, recently, DFG and the California Energy Commission jointly published guidelines for energy projects and found that solar installations result in permanent habitat loss.

"Due to the Swainson's hawk's known preference for areas of low vegetation that support abundant prey, such as grasslands or alfalfa fields (Bechard 1982, Babcock 1995), the Department considers conversion of foraging areas to renewable energy power plant facility sites to be habitat loss. For example, solar panel arrays are expected to eliminate most or all foraging potential. Significant habitat loss may result from individual projects and cumulatively, from multiple projects. Each project which contributes to a significant cumulative effect must offset its contribution to that effect in order to determine that the cumulative impacts have been avoided."

Page 2, Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California State of California California Energy Commission and Department of Fish and Game June 2, 2010 (Appended)

Your analysis of impacts on Swainson's Hawks is not consistent with that found by FOSH in similar documents in other counties because it includes no mitigation for loss of foraging habitat for nesting pairs within 10 miles of the site.

Judith Lamare, Pres.
Friends of the Swainson's Hawk
swainsonshawk@sbcglobal.net
915 L Street, C-425
Sacramento, CA 95814
916 447 4956



915 L Street, C-425
Sacramento, Ca. 95814
916-447-4956
www.swainsonshawk.org

November 10, 2011

Ejaz Ahmad
Fresno County Public Works and Planning Department
2220 Tulare Street, Sixth Floor
Fresno, Ca. 93721

By email: EAhmad@co.fresno.ca.us

Re: - SR SOLIS ORO LOMA, LLC. Notice of Intent To Adopt a Mitigated Negative Declaration; IS APP 6279 AND USE PERMIT 3297.

Dear Mr. Ahmad:

Friends of the Swainson's Hawk believes that wildlife is part of California's future and we're dedicated to seeing the California population of Swainson's Hawks flourish for all generations to come. We are a 501-c-3 volunteer charitable organization providing advocacy for wildlife and habitat and raptor safety. This letter addresses our concerns about the **MND for the SR Solis Oro Loma project application 6279 and Use Permit 3297**. This is a project to locate a photovoltaic solar plant on a 120.07 acre portion of a 155.85 acre parcel 12 miles west of Firebaugh on farmland.

We have reviewed the IS/MND and find it to be inadequate under CEQA. We concur with the comments submitted by Defenders of Wildlife, November 3, 2011 and their request that the IS/MND be revised to address deficiencies and recirculated prior to hearing. Please address the deficiencies identified below in a recirculation. Please keep us informed about future opportunities to review and comment upon this and other energy projects potentially affecting the Swainson's Hawk in Fresno County.

We are aware that applicant prepared a biological assessment that identifies Swainson's Hawk foraging habitat loss and a proposal for mitigation. We are also aware that California Department of Fish and Game has informed the lead agency in an email June 2, 2011, that mitigation for loss of foraging habitat is recommended. The Biological Assessment Report does not contain identification of Swainson's Hawk habitat loss impacts.

Regulatory Framework:

CEQA defines the significance of an impact on a state-listed species based on the following:

- Appendix G of the State CEQA guidelines states that a biological resource impact is considered significant (before considering offsetting mitigation measures) if the lead agency determines that project implementation would result in "substantial adverse effects, either directly or through habitat modifications, on any species identified as being

- a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFG or USFWS”; and
- CEQA Section 15065 (Mandatory Findings of Significance), a biological resource impact is considered significant if the project has the potential to “substantially reduce the number or restrict the range of an endangered, rare or threatened species”.

The MND description of CEQA requirements fails to acknowledge that projects are required to mitigate for impacts on state listed species, even when the requirements of CESA would not require a take permit. This specifically includes loss of foraging habitat, not covered by CESA. The MND appears to wrongly assume that foraging habitat mitigation is not required of the project. It is not clear on what basis the MND makes this assumption.

“CEQA requires a mandatory findings of significance if a project’s impacts to threatened or endangered species are likely to occur (Sections 21001 [c], 21083, Guidelines Sections 15380, 15064, 15065). Impacts must be avoided or mitigated to less than significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration.” (The Staff Report Regarding Mitigation for Impacts on Swainson’s Hawk in the Central Valley of California, California Department of Fish and Game, November 8, 1994, page 4)

The MND states (pp. 6-7):

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The project was routed to the U.S. Fish and Wildlife Service (FWLS) and the California Department of Fish and Game (DFG) for review and comment. In the comment provided on June 28, 2010, FWLS indicated that the project will have no effect on federally threatened and endangered species and expressed no other concerns with the proposal. However, DFG in the comments provided on June 2, 2011, expressed need for a Swainson's Hawk nesting surveys prior to construction of the project and providing adequate buffer around active nests during bird nesting period. Given DFG comments, implementation of the following mitigation measures would reduce potential impacts to on-site foraging and nesting Swainson's Hawk to a less than significant level.

**Mitigation Measures:*

1. *To mitigate potential impacts to on-site foraging and nesting Swainson's Hawk (Hawk), the applicant shall have a qualified ornithologist survey the site during Hawk nesting season prior to project construction in accordance with the "Swainson's Hawk Technical Advisory Committee's Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys" dated 2000. In addition to pre-construction nesting surveys the applicant shall:*
 - a. *Adhere to the ½ mile buffer around active nests during the nesting season which prohibit project-related construction within the buffer of active nests, should they be found.*
 - b. *Work closely with the California Department of Fish & Game (CDF&G) including insuring that the qualified individual retained to conduct survey work contact CDF&G prior to and upon completion of the surveys to insure the most current surveying procedures are implemented and that the need for an Incidental Take Permit is discussed with that agency.*
 - b. *Proof that adequate survey work was completed in consultation with CDF&G shall be provided to the County of Fresno's Department of Public Works & Planning.*

This statement is in error. The mitigation measures do not reduce impacts to less than significant because there has been no assessment of impacts on Swainson's Hawk foraging habitat and no provision for mitigation to offset the loss of Swainson's Hawk foraging habitat.

In a comment email to Fresno County, CDFG said on June 2, 2011:

DFG recommends the acquisition of Swainson's hawk foraging habitat to offset the loss that will occur as a result of the projects. We welcome the opportunity to work with the County to find effective means of mitigation but we don't have the authority to require it in this instance since an Incidental Take Permit under CESA is not being issued.

The remainder of the email discusses a foraging habitat mitigation proposal by the applicant which is not included within the MND.

Please note that standard guidance from the Department of Fish and Game (attached) is available which describes how to assess and mitigate for impacts on Swainson's Hawk foraging and nesting habitat under CEQA.

Biological Assessment. The MND should have performed a standard biological assessment of Swainson's Hawk impacts per CDFG guidance in its 1994 Staff Memorandum. This includes documenting the distance from known active nesting sites of Swainson's Hawks and the potential for foraging on the property. No Biological Assessment was included in the MND.

Disclose Impacts.

Section 15126.2(b) of the *CEQA Guidelines* requires that the EIR describe any significant impacts, including those that can be mitigated but not reduced to less than significant levels. The MND fails to adequately describe the project impacts on Swainson's Hawk foraging habitat and does not explain how the impacts have been mitigated to less than significant.

Mitigation. The DEIR proposed mitigation measures do not mitigate the impacts of the project to less than significant. Feasible mitigation measures for impacts on Swainson's Hawk foraging habitat are missing from this MND. CEQA requires Fresno County to mitigate the impacts of the project to less than significant, or if that is not possible, to the maximum extent feasible and to provide substantial evidence supporting its conclusions.

Habitat Loss. In terms of habitat loss, DFG typically advises that any permanent loss of Swainson's hawk (*Buteo swainsoni*) foraging habitat should be mitigated by preserving or establishing equal quality foraging habitat in an amount equal to or greater than the amount being impacted, and protected and managed in perpetuity. CDFG considers solar installation to be a permanent loss of foraging habitat (the **California Energy Commission and Department of Fish and Game, June 2, 2010 entitled "Swainson's Hawk Survey Protocols, Impact Avoidance and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California."**)

We understand that applicant has retained biological consultants who have recommended mitigation involving agricultural leases. Agricultural leases do not meet the standard recommended by CDFG (November 1994) for offsetting loss of foraging habitat. We know of no other instance in which agricultural leases were employed as a mitigation measure. Conservation easements are used because they provide permanent protection and legally enforceable instruments.

Measures to Reduce Take. While the MND includes measures to reduce take, we would prefer to see more detailed requirements to ensure that the project implementation proceeds with due attention to any nesting raptors and with a minimum of reliance on direct involvement of CDFG to ensure that mitigation occurs. The measures should include:

"In order to avoid take of nesting raptors (including Swainson's hawks), a pre-construction raptor nest survey shall be conducted within 15 days prior to the beginning of construction activities by a California Department of Fish and Game (CDFG) approved biologist in order to identify active nests in the project site vicinity (within one-half mile). The results of the survey shall be submitted to CDFG. If active nests are found, a quarter-mile (2640 feet) initial temporary nest disturbance buffer shall be established. If project related activities within the temporary nest disturbance buffer are determined to be necessary during the nesting season, then an on-site biologist/monitor experienced with raptor behavior shall be retained by the project proponent to monitor the nest, and shall along with the project proponent, consult with the CDFG to determine the best course of action necessary to avoid nest abandonment or take of individuals. Work may be allowed to proceed within the temporary nest disturbance buffer if raptors are not exhibiting agitated behavior such as defensive flights at intruders, getting up from a

brooding position, or flying off the nest. The designated on-site biologist/monitor shall be on-site daily if necessary while construction related activities are taking place and shall have the authority to stop work if raptors are exhibiting agitated behavior. In consultation with the CDFG and depending on the behavior of the raptors, over time it may be determined that the on-site biologist/monitor may no longer be necessary due to the raptors' acclimation to construction related activities.

There is no evidence to support the argument that a foraging habitat mitigation requirement is infeasible. Projects throughout California comply with Fish and Game's guidance (November, 1994) and mitigate for foraging habitat impacts.

Thank you for this opportunity to comment. We strongly recommend that you not certify this MND, but prepare the necessary additional analyses and mitigation measures to comply with trustee agency guidance on species protection. Otherwise Fresno County will not be in compliance with CEQA.

Please keep us informed about any public hearings or additional opportunities for public review for this project, and for projects like it that have impacts on Swainson's Hawks.

Sincerely,



Judith Lamare, Ph.D., President
Friends of the Swainson's Hawk
Cell: 916 769 2857

C: Garry George, Audubon California
Jeffrey Single, Regional Manager, CDFG Central Region
Justin Sloan, CDFG Central Region
Kim Delfino, Defenders of Wildlife



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Fresno, CA 93711-6162
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Dear Chairman, Fresno County Planning Commission,

We are writing to you as the authorized representative for SR Solis Oro Loma, LLC (Applicant) regarding the proposed Oro Loma Solar Facility Project (Project). The proposed Project's Unclassified Conditional Use Permit (No. 3297) and CEQA Initial Study/ Mitigated Negative Declaration (IS/MND) (No. 6279) will be heard before your Commission at the November 17, 2011 hearing.

H.T Harvey & Associates (H.T. Harvey) completed a biological reconnaissance level field survey of the Project site on September 28, 2009; and prepared on October 28, 2009 the "SR Solis Ora Loma Preliminary Biotic Constraints Analysis", addressing potential on-site biological concerns and mitigation. The Biotic Constraints Analysis recommended pre-construction and avoidance mitigation for San Joaquin kit fox (*Vulpes macrotis mutica*) and Burrowing owl (*Athene cunicularia*); and pre-construction surveys for nesting birds. Five active Swainson's hawk (*Buteo swainsoni*) nests within five miles of the Project site were noted in 2009 and suitable foraging habitat for Swainson's hawk was also noted on-site. No on-site suitable nesting habitat was discovered. Breeding season surveys and mitigation for loss of foraging habitat was recommended.

H.T. Harvey also prepared the "Proposed Strategy for Mitigating Impacts to Swainson's Hawks – Oro Loma and Oro Loma Teresina Projects" in May 2011, which more specifically addressed mitigation for the loss of foraging habitat, in the form of off-site mitigation land.

In addition to the CEQA mitigation measures proposed by County staff in the Project's Initial Study document, the Applicant requests that the following mitigation measures, derived from recommendations made in the H.T. Harvey documents described above, also be approved by your Commission.

1. Swainson's hawk

To mitigate potential impacts to loss of on-site foraging area for identified Swainson's hawk pursuant to the HT Harvey survey measures, the applicant shall implement off-site retention of agricultural land suitable for foraging habitat through a methodology described in the "Proposed Strategy For Mitigating Impacts To Swainson's Hawks – Oro Loma and Oro Loma Teresina Projects" including the following Strategy clarifications and modifications:

- a. A guarantee of the production of acres based on a ratio of 0.75:1 acres of suitable foraging habitat by leasing and maintaining agricultural lands operated by ABAR/Barcellos Ranch under agreement with the landowner for the production of crops providing suitable

foraging habitat for Swainson's Hawks in the region as confirmed by CDF&G shall be provided for review and approval to CDF&G with copy of documentation (property acquisition, conservation easement or long term lease agreement) to the Fresno County Department of Public Works & Planning.

b. Documentation confirming an annual production of a minimum number of acres of prime Swainson's Hawk foraging habitat based on said ration shall be documented in the annual pest management reports by the farm operator, with information collected by a qualified third party monitor or biological consultant with the annual reporting provided directly to CDF&G with copy to the Fresno County Department of Public Works & Planning.

c. The above Swainson's Hawk mitigation shall remain in place until such time that the 120.07-acre project site associated with Unclassified Conditional Use Permit No. 3297 is converted back to active agricultural land.

2. San Joaquin kit fox

Prior to and during any ground-disturbing activities occurring within the project area, the applicant will implement the following measures as recommended by USFWS construction protocols for the protection of the San Joaquin kit fox:

a. Project-related vehicles will observe a 20-mile-per-hour speed limit in all project areas, except on county roads and state and federal highways; this is particularly important at night, when San Joaquin kit foxes are most active. To the greatest extent practicable, nighttime construction will be minimized. Off-road traffic outside of designated project areas will be prohibited.

b. To prevent inadvertent entrapment of San Joaquin kit foxes during the construction phase of the project, all excavated, steep-walled holes or trenches more than 2 feet deep will be covered at the close of each working day by plywood or similar materials or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals. If at any time a trapped or injured San Joaquin kit fox is discovered, the procedures under numbers h, k, l and m of this section will be followed.

c. San Joaquin 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 the construction site for 1 or more overnight periods will be thoroughly inspected for San Joaquin kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a San Joaquin kit fox is discovered inside a pipe, then that section of pipe will not be moved until the USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved once to remove it from the path of construction activity until the fox has escaped.

d. All food-related trash items such as wrappers, cans, bottles, and food scraps will be disposed of in closed containers and removed at least once a week from the construction site.

- e. No firearms will be allowed on the site, except for onsite security purposes.
- f. To prevent harassment or mortality of San Joaquin kit foxes or destruction of dens by dogs or cats, no pets will be permitted on the site.
- g. The use of rodenticides and herbicides in the project area will be minimized to meet Fresno County's pest control objectives within an actively farmed landscape. All uses of such compounds will 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.
- h. The applicant will appoint a representative who will be the contact source for any employee or contractor who might inadvertently kill or injure a San Joaquin kit fox or who finds a dead, injured, or entrapped individual. This representative will be identified during the employee education program. The representative's name and telephone number will be provided to the USFWS.
- i. An employee education program will be conducted for the project. The program will consist of a brief presentation by persons knowledgeable in San Joaquin kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and agency personnel involved in the project. The program will include the following: a description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of San Joaquin kit fox in the project area; an explanation of the status of the species and its protection under the ESA; and a list of measures being taken to reduce impacts on the species during construction and implementation. A fact sheet conveying this information will be prepared for distribution to the above-mentioned people and anyone else who may enter the site.
- j. Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, electrical collection corridors, etc., will be re-contoured, if necessary, and the site will be kept mowed and weed free in accordance with the Pest Management Plan required by Fresno County.
- k. In the case of trapped animals, escape ramps or structures will be installed immediately to allow the animal(s) to escape, or the USFWS will be contacted for advice.
- l. Any contractor, employee, or agency personnel who inadvertently kills or injures a San Joaquin kit fox will immediately report the incident to their representative. This representative will contact the CDFG immediately in the case of a dead, injured, or entrapped San Joaquin kit fox. The CDFG contact for immediate assistance is State Dispatch at (916) 445-0045. They will contact the local warden or biologist.
- m. The Sacramento Fish and Wildlife Office and CDFG will be notified in writing within three working days of the accidental death of or injury to a San Joaquin 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 (916) 414-6630. The CDFG contact is Mr. Craig Bailey at 1234 E. Shaw Avenue, Fresno, California 93710, at (559) 243-4014.

n. To enable kit foxes and other wildlife to pass through the project site after construction, the security fence shall be raised 5 - 7 inches above the ground. The bottom of the fence fabric shall be knuckled (wrapped back to form a smooth edge) to protect wildlife that passes under the fence.

o. A pre-construction survey of the project site shall be conducted by a qualified biologist to locate and identify potential dens, known dens and natal dens, and avoid or treat such dens in accordance with the "USFWS Standardized Recommendations for the Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance"

3. Burrowing owl

To avoid impacts on western burrowing owl, the following guidelines, adapted from the DFG Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game 1995), will be implemented:

a. A qualified wildlife biologist (i.e., a wildlife biologist with previous burrowing owl survey experience) will conduct a preconstruction survey to locate any breeding or wintering burrowing owls no more than 30 days prior to the start of construction.

b. If no burrowing owls are detected, no further mitigation is necessary. If burrowing owls are detected, no ground-disturbing activities, such as road construction or installation of photovoltaic panels or ancillary facilities, will be permitted within 250 feet of an active burrow during the breeding season (February 1–August 31) unless otherwise authorized by DFG. Occupied burrows should not be disturbed during the nesting season unless a qualified biologist approved by DFG verifies through noninvasive methods that either (1) the birds have not begun egg-laying and incubation, or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.

c. During the nonbreeding (winter) season (September 1–January 31), ground-disturbing work can proceed near active burrows as long as the work occurs no closer than 160 feet from the burrow and the site is not directly affected by the project activity. If active winter burrows are found that would be directly affected by ground-disturbing activities, owls can be displaced from winter burrows. A qualified wildlife biologist will install one-way doors at the entrance to the active burrow and other potentially active burrows within 150 feet of the active burrow. Forty-eight hours after the installation of the one-way doors, the doors can be removed, and ground-disturbing activities can proceed.

4. Migratory Birds

To avoid potential impacts to migratory birds, the applicant shall:

- a. To the extent practicable, schedule construction to avoid the January through August nesting season.
- b. If it is not possible to schedule construction between August and January, pre-construction surveys for nesting birds shall be conducted by a qualified biologist to ensure that no nests will be disturbed during Project implementation. A pre-construction survey shall be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (January through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the qualified person shall inspect all potential nest substrates in and immediately adjacent to the impact areas for nests. If an active nest is found close enough to the construction area to be disturbed by these activities, the biologist, in consultation with CDFG, shall determine the extent of a construction-free buffer to be established around the nest.

We appreciate your consideration of this request.

Sincerely,


Provost & Pritchard Consulting Group
Susan Gladding, AICP

cc: Chris Motta, Planning Department



EXHIBIT 5

286 W. Cromwell Avenue
Fresno, CA 93711-6162
Tel: (559) 449-2700
Fax: (559) 449-2715
www.ppeng.com

August 10, 2015

County of Fresno Department of Public Works & Planning
Ejaz Ahmad
2220 Tulare Street, Street Level
Fresno, CA 93721

Subject: Request for extension to Unclassified Conditional Use Permit No. 3297.

Dear Mr. Ahmad:

The applicant for the above captioned Conditional Use Permit, SR Solis Oro Loma Teresina, LLC, was recently acquired by CED California Holdings 3 and renamed to CED Oro Loma Solar, LLC. See attached Assignment of Membership Interests, and State of Delaware Certificate of Amendment.

The project is now affiliated with Con Edison Development (CED), a major builder and operator of electricity production facilities throughout the United States. Locally, CED's portfolio includes a number of operational projects located within Kings and Tulare Counties.

The Fresno County Planning Commission originally approved this project on November 17, 2011. Following an appeal of that approval, negotiations between the applicant and the appellant ultimately resulted in a settlement between the parties. The effective approval date for Unclassified CUP No. 3297 has been established as August 28, 2013. The CUP has an initial life of two years, and may be subject to one or more time extensions.

Following its acquisition by CED, CED Oro Loma Solar, LLC has entered into various contracts for labor and infrastructure components to facilitate construction of this site, as well as to provide power to PG&E pursuant to specific deadlines. While it is not logistically possible for construction to commence prior to the August 28, 2015 expiration, the binding nature of these agreements indicates that the project timeline is in fact moving forward and that construction and operation of the facility are imminent. We thus request on behalf of CED Oro Loma Solar, LLC that the County provide a two-year extension to Unclassified CUP No. 3297 valid through August 28, 2016. It is expected that this extension will give CED and its suppliers and contractors the time necessary to mobilize, deliver, and install the facilities.

I greatly appreciate your consideration of this request. Please contact me at 559-449-2700 or at joneal@ppeng.com with any questions. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey O'Neal", is written over a white background.

Jeffrey O'Neal, AICP
Provost & Pritchard Consulting Group

RECEIVED
COUNTY OF FRESNO

AUG 10 2015

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION