



Inter Office Memo

DATE: September 15, 2022

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12963 - UNCLASSIFIED CONDITIONAL USE PERMIT
NO. 3696 INITIAL STUDY NO. 7998

APPLICANT: SAR 1, LLC

OWNER: John Verwey

REQUEST: Allow the installation and operation a dairy digester and biomethane facility to produce commercial grade biogas; and allow the construction of an approximately 3.5-mile-long underground pipeline to convey the gas. The processing portion of the project will be located on portions of three adjacent parcels, a 159.26 acre, a 98.14-acre and a 48.48-acre parcel, and the proposed pipeline will traverse six additional parcels to the point of interconnection in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located approximately 0.5 miles west of S. Jameson Avenue, between W. Floral Avenue, and W. Nebraska Avenue; the proposed pipeline route would extend southwesterly to an existing dairy site located approximately one half mile northeast of the intersection of W. Kamm Avenue and the S. Bishop Avenue alignment, approximately four miles northeast of the unincorporated community of Helm (APNs: 041-030-47S 48S, 20S, 041-020-30S, 29S, 31S, 32S, 27S, 041-060-60S) (11511 W. Floral Avenue) (Sup. Dist. 4).

PLANNING COMMISSION ACTION:

At its hearing of September 15, 2022, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Vice Chair Hill and seconded by Commissioner Arabian to adopt the Mitigated Negative Declaration for the project based on Initial Study No. 7998, adopt the five recommended Findings, and approve Unclassified Conditional Use Permit (UCUP) No. 3696, subject to the Conditions listed in Exhibit B.

This motion passed on the following vote:

VOTING:	Yes:	Commissioners Hill, Arabian, Abrahamian, Chatha, Ewell, and Zante
	No:	None
	Absent:	Commissioners Carver and Woolf
	Recused:	None

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

By: 

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

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

Attachments

EXHIBIT A

Initial Study No. 7998 and
Unclassified Conditional Use Permit Application No. 3696

Staff: The Fresno County Planning Commission considered the Staff Report dated September 15, 2022 and heard a summary presentation by staff.

Applicant: The Applicant concurred with the Staff Report and the recommended Conditions. He described the project and stated that their goal is to capture the methane produced at their dairy operation, in order to convert it to usable natural gas.

Others: Two other individuals involved in similar agricultural operations in the area spoke in favor of the application stating

- The produced biogas will be sold to the natural gas grid. The intent is for the natural gas to be utilized in the natural gas-powered vehicle market.
- We are developing a related project in the vicinity, and we are in full support of this project.

No individuals spoke in opposition to the proposal.

Correspondence: No additional correspondence was presented at the Planning Commission Hearing in support of or in opposition to the application.

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EXHIBIT B

**Mitigation Monitoring and Reporting Program
Unclassified Conditional Use Permit Application No. 3696
Initial Study No. 7998
(Including Conditions of Approval and Project Notes)**

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
1.	Aesthetics	All outdoor lighting shall be hooded and directed downward so as not to shine on adjacent properties or public right-of-way.	Applicant	Applicant/Department of Public Works and Planning	Ongoing
2.	Cultural Resources/Tribal Cultural Resources	In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/PW&P	During ground-disturbing activities.
Conditions of Approval					
1.	Development of the proposed digester, biomethane facility and pipeline shall be in substantial compliance with the Site Plans, Floor Plans, Elevations, and Project Description/Operational Statement approved by the Planning Commission.				
2.	Prior to the issuance of permits, a revised Nutrient Management Plan and Operations and Maintenance Plan shall be submitted to the Central Valley Regional Water Quality Control Board for review and approval; and a copy of both of the approved plans shall be provided to the Fresno County Department of Public Works and Planning, Development Services and Capital Projects Division.				
3.	Prior to installation of the digesters, technical documents shall be submitted to the Central Valley Regional Water Quality Control Board for review and approval by the executive officer. Submittal shall include engineering documentation pertaining to the construction of the digesters and ancillary components.				

EXHIBIT B

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

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Building permits will be required for all proposed structures and buildings.
2.	<p>The Development Engineering Section provide the following comments:</p> <ul style="list-style-type: none"> a. Any additional storm water runoff generated by the proposed development of this site cannot be drained across property lines or into the road right-of-way and must be retained on-site per County Standards. b. If the proposed development does not substantially increase the net impervious surface on-site and the existing drainage patterns are not changed, there will be no engineered grading and drainage plan required. However, Letter of Retention and Letter of Certification from a licensed Civil Engineer addressed to the Department of Public Works and Planning may be required. Letter of Certification must specify the reason why an engineered grading and drainage plan is not needed. c. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) are required to be filed with the State Water Resources Control Board (SWRCB) before the commencement of any construction activities disturbing 1.0 acre or more of area. Copies of the completed NOI with WDID # and SWPPP shall be provided to the Development Engineering Section prior to any grading work. d. Any existing or proposed driveway should be set back a minimum of 10 feet from the property line.
3.	<p>The Road Maintenance and Operations Division provided the following comments:</p> <ul style="list-style-type: none"> a. The digester facility subject parcels border on W. Nebraska Avenue and W. Mountain View Avenue, which are not County maintained roads. If the pipeline enters County right-of-way, encroachment permits, and franchise agreements may be required.
4.	<p>The Central Valley Regional Water Quality Control Board provided the following comments:</p> <ul style="list-style-type: none"> a. A revised Nutrient Management Plan was not submitted to indicate that the Dairy's application fields can accommodate the additional effluent discharged from the digester(s) once the effluent has cycled through. The Nutrient Management Plan should address the change in nutrients expected once the digestate has passed through the digester(s). See Condition No. 2 b. The project proposes to receive manure from two sister dairy sites, in addition to the adjacent dairy. The capacity of the digester(s) must be known to determine what maximum amount of wastewater effluent will be imported.

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- c. An Operations and Maintenance Plan should be included to show how the Dairy intends to maintain the digester to prevent failures and indicate what measures will be taken in the event of an upset.
- d. The Initial Study indicates that imported dairy waste will be used for the digester. If the dairy intends to import waste, a mass balance must be presented which documents whether equitable amounts of waste will be exported to participant dairies following the digestion process. If imports and exports are equitable, then it is requested that the dairy submit a Notice of Intent to enroll the dairy under the waste discharge general order for dairies with manure anaerobic digester or co-digester facilities, order no. R5-2010-0130 (Digester General Order). If imports and exports are inequitable, then the digester host dairy and other participant dairies must jointly submit a Notice of Intent as application for regulatory coverage under the digester general order, along with the necessary technical documents, and minimum of 120 days prior to the proposed change in operations.
- e. Prior to installation, technical documents should be submitted to Central Valley Water Board staff for review and approval by the Executive Officer. The submittal should include engineering documentation pertaining to the construction of the digester(s) and ancillary equipment and structures. See Condition No. 3

5.

The Department of Public Health, Environmental Health Division provided the following comments:

- a. The use shall comply with the Fresno County Noise Ordinance and Noise Element of the Fresno County General Plan.
- b. Within 30 days of the occurrence of the following events the Applicant/operators shall update their Hazardous Materials Business Plan and site map:

- 1. There is a 100% or more increase in the quantities of a previously disclosed materials.
- 2. The facility begins handling a previously undisclosed material at or above the HMBP threshold amounts.

The business shall certify that a review of the business plan has been conducted at least once every year and that any necessary changes were made that that the changes were submitted to the local agency.

- c. All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5. This Division discusses proper labeling, storage and handling of hazardous wastes.
- d. If the anaerobic digester process requires accepting manure or other feedstock from other than their own

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	<p>property, the facility would be subject to the Transfer/Processing Operations and Facility Regulatory Requirements (Title 14, California Code of Regulations, Division 7, Chapter 3, and Article 6.0-6.35).</p> <ul style="list-style-type: none"> e. The land application rates of liquid from digester and solid waste from the digester (including holding ponds) shall be applied in accordance with approval and water quality standards enforced by the Central Valley Regional Water Quality Control Board (RWQCB). f. The operational statement indicates that the separated solids from the anaerobic digester may be utilized for composting, or a dewatered cake for land application. Prior to the production of compost from operations of the digester, the facility shall apply for and obtain a permit to operate a Solid Waste Facility from the County of Fresno, Environmental Health Division action as the Local Enforcement Agency (LEA). The Applicant will be required to obtain a SWIS Number from Cal Recycle. g. In an effort to protect groundwater, all abandoned water wells and septic systems on the parcel shall be properly destroyed by an appropriately licensed contractor (permits required). h. If any underground storage tank(s) are found during construction, the applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division.
6.	<p>The San Joaquin Valley Air Pollution Control District provided the following comments:</p> <ul style="list-style-type: none"> a. Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 requires that new and modified stationary sources of emissions mitigate their emissions using best available control technology (BACT). This project will be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. Prior to commencing construction on any permit-required equipment or process, a finalized Authority to Construct must be issued to the project proponent by the District. b. The purpose of District Rule 9510 (Indirect Source Review) is to reduce the growth in both NO_x and PM₁₀ emissions associated with development and transportation projects from mobile and area sources associated with construction and operation of development projects. The rule encourages clean air design elements to be incorporated into the development projects. The rule encourages clean air design elements to be incorporated into the development project. In case the proposed project clean air design elements are insufficient to meet the targeted emission reductions, the rule requires developers to pay a fee used to fund projects to achieve off-site emissions reductions. The pipeline portion of the project is separate from the permitted facility and is subject to District Rule 9510.

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- c. In the event an existing building will be renovated, partially demolished or removed. The project may be subject to District Rule 4002. This rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated.
- d. The project will be subject to Regulation VIII. The project proponent is required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to construction.
- e. The project may also be subject to the following District rules: Regulations VIII (Fugitive PM10 Prohibitions), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations), Rule 4102 (Nuisance), Rule 4550 (Conservation Management Practices), Rule 4570 (Confined Animal Facilities)). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).

7.

The Fresno County Fire Protection District provided the following comments:

- a. The application shall comply with California Code of Regulations Title 24 – Fire Code. Prior to receiving your Fresno County Fire Protection District conditions of approval for your project, you must submit construction plans to the County of Fresno Public Works and Planning and FCFPD for review. It is the Applicant's responsibility to deliver a minimum of two sets of plans to the FCFPD.
- b. The project/development may be required to annex into the Community Facilities District No. 2010-01 of the FCFPD. Project/developments included: Single-Family Residential (SFR), SFR properties subdivided into three or more housing units, Multi-Family Residential (MFR) Property, Commercial Property, Industrial Property, and/or Office Property.
- c. Project/Development will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought.

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