



County of Fresno

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

Planning Commission Staff Report Consent Agenda Item No. 1 June 25, 2020

SUBJECT: Unclassified Conditional Use Permit No. 3580 – First One-Year Time Extension

Grant a first one-year time extension to exercise Unclassified Conditional Use Permit No. 3580, which authorizes an anaerobic digester for the collection of methane to be constructed on a 6.93-acre portion of an existing dairy facility; allows an increase to the herd size to a maximum of 10,839 milking cows and 20,616 non-milking animals due to a transfer of animals from the Bar 20 Dairy No. 3; and authorizes construction of two new free-stall barns to house said animals on a 324.66-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the south side of Whitesbridge Avenue, between San Mateo Avenue and James Road, addressed as 24387 W. Whitesbridge Avenue, Kerman (Sup. Dist.1) (APN 015-100-21S).

OWNER/APPLICANT: Stephen Shehadey

STAFF CONTACT: Chrissy Monfette, Planner
(559) 600-4204

David Randall, Senior Planner
(559) 600-4050

RECOMMENDATION:

- Approve a first one-year Time Extension for Unclassified Conditional Use Permit No. 3580; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Location Map
2. Existing Zoning Map
3. Existing Land Use Map
4. Planning Commission Resolution and Staff Report dated March 29, 2018
5. Applicant's correspondence requesting a first one-year Time Extension

ENVIRONMENTAL DETERMINATION:

A Mitigated Negative Declaration (MND) prepared for Initial Study No. 7318 was adopted by the Commission on March 29, 2018.

In accordance with CEQA Guidelines Section 15162, when an Environmental Impact Report or Negative Declaration has been adopted for a project, no subsequent environmental document is necessary, unless it is determined that one of the following thresholds has been met (*CEQA Guidelines Section 15162(a)*):

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new, significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the previous Negative Declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

In regard to threshold 1, no changes in the site plan, operational statement, or other characteristics of the project were made as part of this application. The scope of this application

would allow the developer an additional year to exercise the permit as approved with no other changes. Therefore, this threshold is not met.

In regard to threshold 2, the project site is located in an area of an existing dairy operation. Operation of the dairy is the same as it was during the original review. There have been no changes in the surrounding development, which comprises agricultural uses and residential development. Therefore, this threshold is not met.

This project was routed to those agencies who reviewed the original application in 2017. None of these agencies identified any new information of substantial importance, no new impacts were identified that would meet any of the thresholds discussed above. Therefore, this threshold is not met.

As a result, the project does not meet any of the thresholds described in CEQA Guidelines, which would require preparation of a new environmental document. All applicable Mitigation Measures and Conditions of Approval from the original approval will apply to the Time Extension request and will continue to reduce all impacts to less than significant.

PUBLIC NOTICE:

Notices were sent to 25 property owners within 1,300 feet of the subject parcel, in compliance with notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

The Ordinance requires that a Conditional Use Permit shall become void when substantial development has not occurred within two (2) years after approval of the Permit. The Ordinance authorizes the Commission to grant a maximum of four (4) one (1)-year time extensions when it can be demonstrated that circumstances beyond the control of the Applicant have caused delays which do not permit compliance with the original time limitation. The request for extension must be filed prior to the expiration of the Conditional Use Permit.

The Planning Commission's jurisdiction in evaluating this request is limited to the following:

- approve a one-year Time Extension to exercise the Permit as approved;
- approve a one-year Time Extension to exercise the Permit as approved with amended conditions; or
- deny the requested Time Extension.

Mitigation Measures cannot be amended unless the Commission finds that the environment review thresholds discussed above warrant additional studies and a new document is prepared.

BACKGROUND INFORMATION:

Unclassified Conditional Use Permit (CUP) No. 3580 was approved by the Planning Commission on March 29, 2018. A copy of the March 29, 2018 Staff Report and the Planning Commission's Approval is attached (Exhibit 4).

The Applicant filed the subject Time Extension request within the time limit. If approved, the Applicant will have until March 29, 2021 to achieve substantial development of the project.

ANALYSIS/DISCUSSION:

This Time Extension application was routed to all the agencies who reviewed the original project in 2017. None of those agencies identified any change in circumstances or the need for additional conditions and did not express any concerns with the proposed extension of time.

According to the Applicant's letter (Exhibit 5), construction has been delayed due to funding and technological development. The design details are under final review and grant funding has been awarded to the Applicant for development of the digester. The Applicant's reasons for the cause of the project being delayed may be considered to be beyond the control of the Applicant, and to meet the criteria which would allow the Commission to approve the Time Extension.

PUBLIC COMMENT:

None.

CONCLUSION:

Staff believes the requested one-year Time Extension for Unclassified Conditional Use Permit No. 3580 should be approved, based on factors cited in the analysis above. Approval of this Time Extension will extend the expiration date to March 29, 2021.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

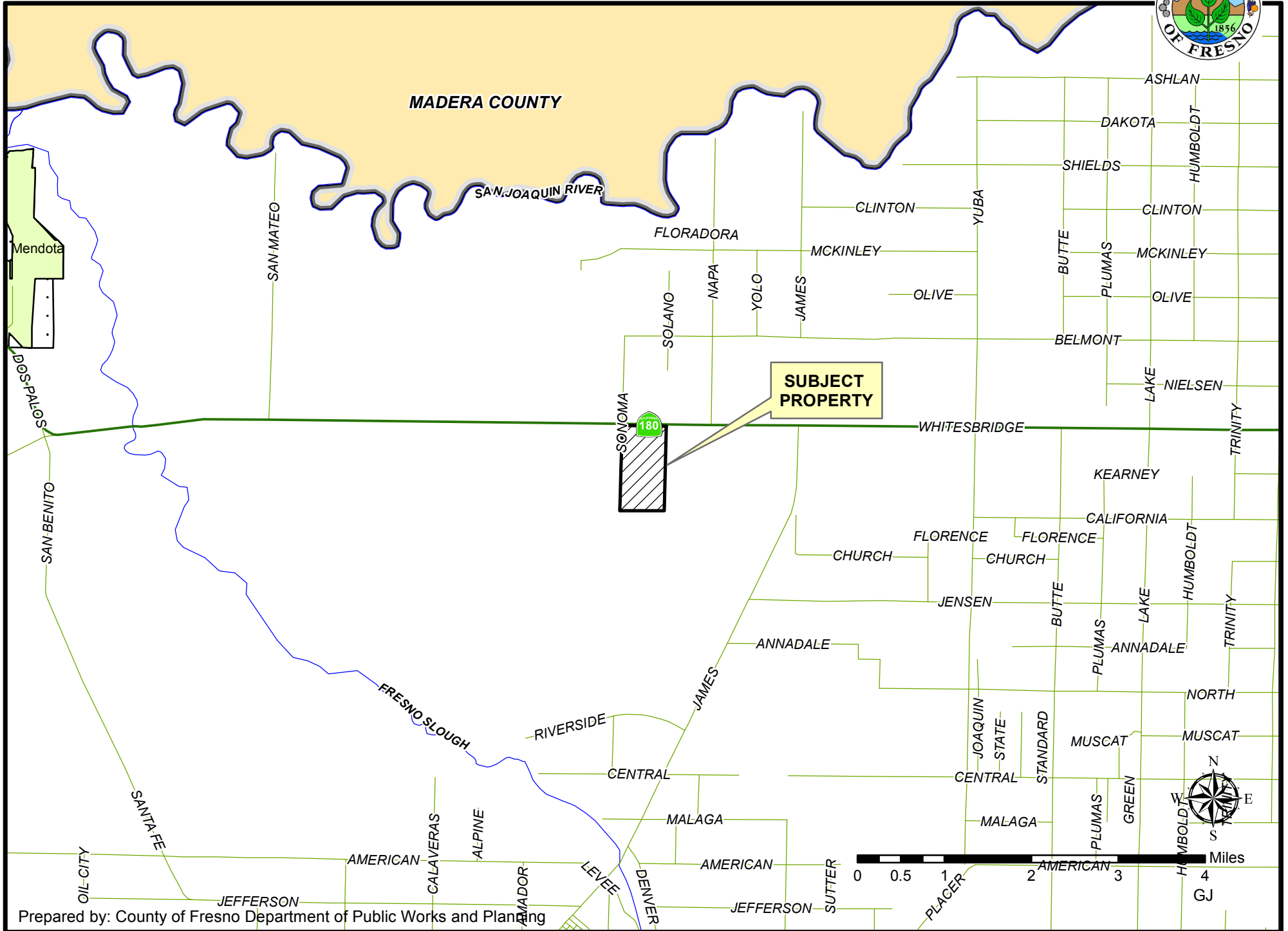
- Move to approve Unclassified Conditional Use Permit No. 3580 – First One-Year Time Extension; and
- Direct the Secretary to prepare a resolution documenting the Commission's action.

Alternative Motion (Denial Action)

- Move to deny Unclassified Conditional Use Permit No. 3580 – First One-Year Time Extension (state reasons for denial); and
- Direct the Secretary to prepare a resolution documenting the Commission's action.

CMM:ksn
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LOCATION MAP



Prepared by: County of Fresno Department of Public Works and Planning

EXHIBIT 1

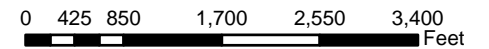
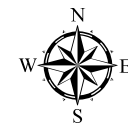
EXISTING LAND USE MAP



LEGEND
DAIRY
FC - FIELD CROP
GRZ - GRAZING
ORC - ORCHARD
SF#- SINGLE FAMILY RESIDENC
V - VACANT

LEGEND:

-  Subject Property
-  Ag Contract Land



Department of Public Works and Planning
Development Services Division



Inter Office Memo

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

APPLICANT/
OWNER: Stephen Shehadey

REQUEST: Allow an approximately 30.4 million-gallon anaerobic digester for the collection of methane to be constructed on a 6.93-acre portion of an existing dairy facility; allow an increase to the herd size to a maximum of 10,839 milking cows and 20,616 non-milking animals due to a transfer of animals from the Bar 20 Dairy No. 3; and construct two new free-stall barns to house said animals on a 324.66-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District

LOCATION: The subject parcel is located on the south side of Whitesbridge Avenue, between San Mateo Avenue and James Road, addressed as 24387 W. Whitesbridge Avenue, Kerman (Sup. Dist.1) (APN 015-100-21S)

PLANNING COMMISSION ACTION:

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

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

EXHIBIT A

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

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

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

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
*1.	Biological Resources	Prior to ground-disturbing activities, a qualified biologist shall conduct a habitat assessment for the following species: blunt-nosed leopard lizard, San Joaquin kit fox, Fresno kangaroo rat, tricolored blackfoot, burrowing owl, American badger, western spadefoot, and the coast horned lizard. If habitat for such species is determined to be present, additional studies will be necessary to determine the actual presence of special-status species and further mitigation may be required.	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*2.	Biological Resources	In order to reduce impacts to the blunt-nosed leopard lizard (BNLL), if suitable habitat is present, the Applicant shall implement the following measures: a. Prior to ground-disturbing activities, but not more than one year in advance of such work, surveys shall be conducted in the areas of the proposed digester and free-stall barns in accordance with the "Approved Survey Methodology for the Blunt-nosed Leopard Lizard" (CDFG 2004). b. If the presence of BNLL is detected, the Applicant shall consult with CDFW to determine how to implement ground-disturbing activities to avoid take.	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*3.	Biological Resources	In order to reduce impact to the San Joaquin Kit Fox (SJKF), if suitable habitat is present, the Applicant shall implement the following measures: a. Not more than 30 days prior to and not less than 14 days earlier than the start of ground-disturbing activities, a qualified biologist shall assess the presence or absence of SJKF by conducting surveys following U.S. Fish and Wildlife Service's (USFWS)	Applicant	Applicant/PW&P	Prior to ground-disturbing activities

		<p>“Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance” (2011).</p> <p>b. If SJKF is determined to be present at the site, the Applicant shall consult with CDFW to determine how to avoid take, or if avoidance is not feasible, shall acquire an Incidental Take Permit prior to ground-disturbing activities.</p>	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*4.	Biological Resources	<p>In order to reduce impacts to the Fresno Kangaroo Rat (FKR), if suitable habitat is present, the Applicant shall implement the following measures:</p> <p>a. Focused protocol-level trapping surveys shall be conducted by a qualified biologist in accordance with USFWS’s “Survey Protocol for Determining Presence of Fresno Kangaroo Rats” (2013).</p> <p>b. If FKR is detected, the Applicant shall consult with CDFW to discuss avoidance measures.</p>	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*5.	Biological Resources	<p>In order to reduce impacts to the Tricolored Blackbird (TRBL), the following measures shall be implemented:</p> <p>a. If construction occurs outside normal breeding season (February 1 through September 14), no additional mitigation is necessary to avoid impacts.</p> <p>b. If construction occurs during normal breeding season, a qualified wildlife biologist shall conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation.</p> <p>c. If pre-construction surveys indicate the presence of an active TRBL nesting colony, a minimum 300-foot no-disturbance buffer shall be established, in accordance with CDFW’s “Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields” (2015). Prior to removal of the buffer, a qualified biologist must determine that nesting has ceased or the birds have fledged. The</p>	Applicant	Applicant/PW&P	Prior to ground-disturbing activities

		<p>buffers may be removed once the nesting season has ended.</p> <p>d. If pre-construction surveys indicate the presence of TRBL, the Applicant shall consult with CDFW to avoid take, or shall obtain an Incidental Take Permit.</p>			
<p>*6.</p>	<p>Biological Resources</p>	<p>In order to reduce impacts to the Burrowing Owl (BUOW), if suitable habitat is present, the following measures shall be implemented:</p> <p>a. Surveys shall be conducted by a qualified biologist to determine the presence or absence of BUOW at the project site and within a 500-foot buffer of the project site. These surveys shall follow the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012).</p> <p>b. If BUOW is determined to be present at the project site, no-disturbance buffers as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012) shall be implemented prior to and during all ground-disturbing activities. The buffer zones recommended by the "Staff Report" shall be implemented unless a qualified biologist, approved by CDFW, verifies through non-invasive methods that either: the birds have not begun egg-laying and incubation; or that the juveniles from the occupied burrows are foraging independently and are capable of independent survival.</p> <p>If it is not feasible to implement buffers as outlined by the "Staff Report", a qualified biologist may perform burrow exclusion to remove BUOW from the project site. Burrow exclusion shall occur only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods. Artificial burrows shall be created at a 1:1 ratio for each exclusion.</p>	<p>Applicant</p>	<p>Applicant/PW&P</p>	<p>Prior to ground-disturbing activities</p>

*7.	Biological Resources	<p>In order to reduce impacts to the American Badger, the western spadefoot, and the coast horned lizard, if suitable habitat is present, the following measures shall be implemented:</p> <ul style="list-style-type: none"> a. Surveys shall be conducted by a qualified biologist to determine if species are present. b. 50-foot no-disturbance buffers shall be implemented around any identified burrows and dens. 	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*8.	Cultural Resources	<p>In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours. The Applicant must notify the Table Mountain Rancheria Tribal Government by email at rpennell@tmr.org and the Picayune Rancheria of Chukchansi Indians by email at THarter@chukchansi-nsn.gov of any archeological finds.</p>	Applicant	Applicant/PW&P	During ground-disturbing activities.

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

Conditions of Approval	
1.	Development of the property shall be in accordance with the Site Plan, Floor Plans, Elevations and Operational Statement approved by the Commission.
2.	Prior to occupancy, a Site Plan Review shall be submitted to and approved by the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include: design of parking and circulation areas, access, on-site grading and drainage, fire protection, landscaping, signage and lighting.

Notes

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

1.	<p>The following requirements were provided by the Central Valley Regional Water Quality Control Board: Provision E.3 of the Digester Order requires the submittal of a Report of Waste Discharge. Upon completion of construction of the proposed anaerobic digester, several of the Provisions in Section E of the Digester Order requiring submission of technical reports will be past-due and will need to be submitted as soon as practicable.</p>
2.	<p>Prior to the production of compost from operations of the digester, the facility shall apply for and obtain a permit to operate a Solid Waste Facility from the County of Fresno, Environmental Health Division acting as the Local Enforcement Agency (LEA). Please contact Solid Waste staff at (559) 600-3271 for more information.</p>
3.	<p>Prior to issuance of building permits, the Applicant will be required to submit complete construction plans and specifications for the new freestall barns for review and approval. Plans shall be submitted to the California Department of Food and Agriculture, and the County of Fresno Department of Public Health, Environmental Health Division. Please contact John Smith at (559) 600-3357 for more information.</p>
4.	<p>Within 30 days of the occurrence of any of the following events, the Applicant/operators shall update their online Hazardous Materials Business Plan and site map (http://cers.calepa.ca.gov/ or https://www.fresnocupa.com/) 1. There is a 100% or more increase in the quantities of a previously-disclosed material; 2. The facility begins handling a previously-undisclosed material at or above the HMBP threshold amounts. The business shall certify that a review of the business plan has been conducted at least once every year and that any necessary changes were made and that the changes were submitted to the local agency. Contact the Certified Unified Program Agency at (559) 600-3271 for more information.</p>
5.	<p>All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5. This Division discusses proper labeling, storage and handling of hazardous wastes.</p>
6.	<p>Construction plans, permits and inspections will be required for all proposed construction. Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of Fresno County Ordinance. Note that grading import is not allowed for the development of the proposed work within the flood zone.</p>
7.	<p>Any additional runoff generated by the proposed development of a site cannot be drained across property lines, or into the Caltrans right-of-way, and must be retained on site per County Standards.</p>
8.	<p>Any existing or proposed parking area should comply with the Fresno County Off-street Parking Design Standards.</p>

Notes

9.	A grading permit or voucher is required for any grading proposed with this application
10.	Any proposed driveway should be set back a minimum of 10 feet from the property line. For unpaved or gravel surface access roads, the first 100 feet off of the edge of the road right-of-way must be graded and asphalt concrete paved or treated with dust palliative, and any existing or proposed entrance gate should be set back a minimum of 20 feet from the road right-of-way line or the length of the longest truck entering the site, and shall not swing outward.
11.	Any encroachment or access over the Southern Pacific Railroad right-of-way would require approval from the owner.
12.	Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of Fresno County Ordinance. Note that grading import is not allowed for the development of the proposed work within the flood zone. Any dirt material used for grading must be obtained within the designated flood area so as to not cause an impact to the determined area of flooding.



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 2 March 29, 2018

SUBJECT: Initial Study Application No. 7318 and Unclassified Conditional Use Permit Application No. 3580

Allow an approximately 30.4 million-gallon anaerobic digester for the collection of methane to be constructed on a 6.93-acre portion of an existing dairy facility; allow an increase to the herd size to a maximum of 10,839 milking cows and 20,616 non-milking animals due to a transfer of animals from the Bar 20 Dairy No. 3; and construct two new free-stall barns to house said animals on a 324.66-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District

LOCATION: The subject parcel is located on the south side of Whitesbridge Avenue, between San Mateo Avenue and James Road, addressed as 24387 W. Whitesbridge Avenue, Kerman (Sup. Dist.1) (APN 015-100-21S)

OWNER/APPLICANT: Stephen Shehadey

STAFF CONTACT: Chrissy Monfette, Planner
(559) 600-4245

Marianne Mollring, Senior Planner
(559) 600-4569

RECOMMENDATION:

- Adopt the Mitigated Negative Declaration prepared for Initial Study (IS) Application No. 7318; and
- Approve Unclassified Conditional Use Permit Application No. 3580 with recommended Findings and Conditions; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Mitigation Monitoring, Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Site Plans and Detail Drawings
6. Elevations
7. Applicant's Operational Statement
8. Summary of Initial Study Application No. 7318
9. Public Comment on Initial Study Application No. 7318

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agriculture	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)	No change
Parcel Size	324.66-acre	No change
Project Site	A dairy with related improvements on a 324.66-acre parcel.	New digester to collect methane (biogas), transfer of herd from nearby dairy, new freestall barns
Structural Improvements	Open lot corrals, weening pens, calf barns, freestall barns, milk barn, vet barn, wastewater retention ponds, wastewater process pits, weeping wall system	Two new freestall barns, new digester with new irrigation pond and mechanical pad for equipment
Nearest Residence	~100 feet west of property line	No change
Surrounding Development	Dairy, grazing, orchards, and row crops	Closure of nearby dairy
Operational Features	Existing dairy operates 24 hours per day, 7 days per week; milk cows are milked twice each day; other staff works between 4:00 AM and 6:00 PM; milk is picked up	New digester will collect methane to convert to electricity which will be used at the site and/or

Criteria	Existing	Proposed
	several times each day; solid manure and liquid waste is applied to contiguous farmland; some solid manure is delivered offsite	sold through power purchase agreement
Employees	Approximately 80	No change
Customers	None	No change
Traffic Trips	80 Employee trips, 15 salesman trips, 8 delivery trips	1-2 trip per month increase to number of maintenance and service trips
Lighting	As existing	No change
Hours of Operation	Dairy is in continuous operation; typical employee hours range between 4:00 AM and 6:00 PM	No change

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

ENVIRONMENTAL ANALYSIS:

An Initial Study (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, with additional clarification noted in bold type, is included as Exhibit 8. Public comment regarding the adequacy of the Initial Study is included as Exhibit 9. In accordance with Section 15074 of the CEQA guidelines, the Planning Commission should consider the proposed mitigated negative declaration together with any comments received during the public review process. The proposed mitigated negative declaration should be adopted only if the Commission finds that there is no substantial evidence that the project will have a significant effect on the environment.

Notice of Intent to Adopt a Mitigated Negative Declaration publication date: February 19, 2018

PUBLIC NOTICE:

Notices were sent to 7 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

An Unclassified Conditional Use Permit Application may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 873-F are made by the Planning Commission.

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

BACKGROUND INFORMATION:

The subject parcel was originally zoned A-1 (Agricultural) as established by the Board of Supervisors on June 8, 1960. On August 31, 1976 the zoning was amended to its current AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District by way of County-initiated Amendment Application No. 2870.

The dairy on the subject parcel is operating under the provisions of County Ordinance Section 869, which discusses regulations for the siting and operation of commercial cattle dairies. As this dairy had obtained all required permits prior to the adoption of Section 869, the property owner was not required to apply for a Conditional Use Permit in order to continue operations.

This proposal is comprised of three separate requests: allow the installation and operation of a new digester, allow an increase in herd size due to a transfer of animals from an adjacent dairy, and allow the construction of new freestall barns to house said animals. The installation of the digester and increase in herd size are considered an expansion of the existing dairy and require the approval of a Conditional Use Permit.

The proposed increase in herd size is due to a transfer of animals from the dairy located to the northwest. The owner has expressed his intention to completely consolidate the two dairies. This is considered an increase to the herd at the project site; however, many of the potential environmental impacts were determined to be less than significant because they do not represent an increase to the baseline. No increase to the amount of land irrigated by the treated wastewater is proposed and there will be no increase to the delivery traffic.

Unclassified Conditional Use Permit No. 3215 was approved by the Planning Commission on January 4, 2008 to allow the installation and operation of an anaerobic digester facility at the subject dairy and a 5.5-mile pipeline that would connect to an existing PG&E pipeline. One time extension was approved for the Unclassified CUP, but the proposed digester and pipeline were not constructed, resulting in the expiration of that permit.

***Finding 1:** That the site of the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by this Division, to adjust said use with land and uses in the neighborhood.*

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	Front (north): 700+ feet Side (east): ~700 feet Side (west): 40 feet Rear(south): ~75 feet	Y Y Y Y
Parking	One off-street parking space for each two permanent employees; one parking space for each company-owned truck; one	~100 parking spaces existing	Y

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
	parking space for each company salesperson		
Lot Coverage	No requirement	N/A	N/A
Space Between Buildings	Six-foot minimum	More than six feet	Y
Wall Requirements	No requirement	N/A	N/A
Septic Replacement Area	100 percent	No change	Y
Water Well Separation	Septic Tank: 50 feet; Disposal Field: 100 feet Seepage pit: 150 feet	No change	Y

Reviewing Agency/Department Comments Regarding Site Adequacy:

County of Fresno Department of Public Works and Planning Building Department: Construction plans, permits and inspections will be required for all proposed construction.

California Department of Fish and Wildlife: Based on a review of aerial imagery, Bar 20 Dairy #3 is bordered to the west by undeveloped land comprised of annual grassland. In addition, the portion of the dairy where the anaerobic digester is proposed is also relatively undisturbed. Furthermore, it is unclear where the additional croplands will be located to accommodate the disposal of the liquid and solid waste generated by the substantial increase in the herd and whether the grasslands lands adjacent to the dairy will need to be developed into croplands for this purpose. Numerous special-status species, which rely on annual grassland for habitat, are known to occur near the Project area.

Central Valley Regional Water Quality Control Board (CVRWQCB): An increase in the mature herd size by more than 15 percent of the herd size reported to the CVRWQCB would be considered an expansion of the dairy. Provision E.3 of the Digester Order requires the submittal of a Report of Waste Discharge. Upon completion of construction of the proposed anaerobic digester, several of the Provisions in Section E of the Digester Order requiring submission of technical reports will be past-due and will need to be submitted as soon as practicable.

County of Fresno Department of Public Works and Planning Development Engineering Division: All Conditions of Approval for any previous applications shall be implemented, if not already in place. Whitesbridge Avenue, which is also State Highway 180, is classified as a State Route per Fresno County General Plan Regional Circulation Diagram Figure TR-1 as dated April 21, 2010. It is not a County-maintained road. Sonoma Avenue is a private road and is not County-maintained.

According to FEMA FIRM Panel 2050H, a large portion of the property is found to be under Flood Zone A which is subject to flooding from the 100-year storm. Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of the Fresno County Ordinance. Note that grading import is not allowed for the

development of the proposed work within the flood zone. Any dirt material used for grading must be obtained within the designated flood area as to not cause an impact to the determined area of flooding. FEMA Elevation Certificates are required for every structure proposed to be constructed within the flood zone. If proposed work is outside the flood zone, a certified map of survey delineating the distances from proposed structure(s) to the flood zone boundary and property lines may be required.

Typically, any additional runoff generated by the proposed development of a site cannot be drained across property lines, or into the Caltrans right-of-way, and must be retained on-site, per County Standards.

An Engineered Grading and Drainage Plan is required to show how additional storm water runoff generated by the proposed development will be handled without adversely impacting adjacent properties. Any proposed wastewater storage pond shall be constructed in accordance with the Design Specifications, Drawings, and Construction Quality Assurance Plan approved by the California Regional Water Quality Control Board. Typically, any existing or proposed parking area should comply with the Fresno County Off-street Parking Design Standards.

A grading permit or voucher is required for any grading proposed with this application.

Fresno County Fire Protection District: This application shall comply with California Code of Regulation Title 24 – Fire Code. Prior to receiving conditions of approval from the Fresno County Fire Protection District (FCFPD), the Applicant must submit construction plans to the County of Fresno Public Works and Planning for review. This development shall annex to Community Facilities District No. 2010-01 of FCFPD and will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought. Requirements for this project may include, but are not limited to: water flow requirements, water storage requirements, fire pumps, road access, Public Resources Code 4290, fire hydrants, fire sprinklers systems, fire alarm systems, premises identification, and Title 15.60 County Ordinance.

U.S. Fish and Wildlife Service: A review of aerial imagery shows that the proposed project is located within the range of the federally endangered San Joaquin kit fox, Fresno kangaroo rat, and blunt-nosed leopard lizard. Each of these species have been documented in the California Natural Diversity Database within 4 miles of the proposed project site. In addition, the proposed project is located within a kit fox designated recovery area, which has been identified as historically and/or currently occupied by the Western Madera satellite population.

Fresno County Department of Public Health: Prior to the production of compost from operations of the digester, the facility shall apply for and obtain a permit to operate a Solid Waste Facility from the County of Fresno, Environmental Health Division acting as the Local Enforcement Agency (LEA).

Prior to issuance of building permits, the applicant will be required to submit complete construction plans and specifications for the new freestall barns for review and approval. Plans shall be submitted to California Department of Food and Agriculture, and County of Fresno, Environmental Health Division.

Within 30 days of the occurrence of any of the following events the applicant/operators shall update their online Hazardous Materials Business Plan (HMBP) and site map: There is a 100% or more increase in the quantities of a previously disclosed material; and/or the facility begins handling a previously undisclosed material at or above the HMBP threshold amounts. The

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

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.

State Water Resources Control Board: Bar 20 Dairy is an existing Public Water System that was not previously regulated. The dairy is open 7 days/week, 24 hours/day and currently has 80 employees. Bar 20 Dairy will be regulated by the Division as a nontransient noncommunity public water system.

The following agencies provided “no comments” or “no concerns” regarding this application: Site Plan Review.

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

Analysis:

The subject parcel has been improved with a number of open lot corrals, eight freestall barns, a weeping wall system, two wastewater retention ponds, three wastewater process pits, weening pens, six calf barns, a veterinary barn, and a milk barn. These buildings currently meet the setback requirements of the AE-20 Zone District. The proposed digester with mechanical pad and H₂S scrubber will be located as far back as or further from the property lines than existing improvements. The freestall barns will be built in line with the existing barns and will also meet the setback standard.

After completion of the proposed project, all manure and wastewater on the facility will be treated by the digester. Effluent of the digester will be utilized for land application to the associated farmland. The Waste Management Plan prepared for this application considered the impacts of both dairies. Since the increase to this use is due to a consolidation of the nearby dairy, no increase to this farmland is proposed.

As part of the preparation of the Initial Study for this project, staff considered the concerns raised by the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service. It was determined that the project could have an adverse impact on some special-status species without mitigation. Therefore, mitigation measures outlining the specific steps necessary to reduce impacts to special-status species to less than significant were included. These measures require the applicant to perform surveys to determine if habitat is present for the identified species and then additional studies to determine if those species have a presence at the site, should the appropriate habitat exist. The measures also identify the standards which will be followed in the case that a special-status species is determined to be present.

Several reviewing agencies identified ways in which the proposed increase to the herd size at the current dairy would invalidate existing plans and submissions. Staff has included the comments regarding necessary submissions as project notes for the applicant; however no agency indicated concerns that the proposed improvements would cause the project to exceed current standards.

Staff finds that the site is adequate in size and shape to accommodate the proposed use.

Recommended Conditions of Approval:

See recommended Conditions of Approval and Mitigation Measures attached as Exhibit 1.

Conclusion:

Finding 1 can be made.

Finding 2: That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.

		Existing Conditions	Proposed Operation
Private Road	No	West Whitesbridge Avenue/Highway 180	No change
Public Road Frontage	Yes	2,660 feet	No change
Direct Access to Public Road	No	Two driveways off West Whitesbridge Avenue	No change
Road ADT		Not available	N/A
Road Classification		State Highway	No change
Road Width		40 feet	
Road Surface		Paved	No change
Traffic Trips		80 Employee trips, 15 salesman trips, 8 delivery trips	1-2 trip per month increase to number of maintenance and service trips
Traffic Impact Study (TIS) Prepared	No	Existing Dairy Traffic	No Change
Road Improvements Required		N/A	None

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

County of Fresno Department of Public Works and Planning Development Services Division: Typically, any proposed driveway should be set back a minimum of 10 feet from the property line. For unpaved or gravel surface access roads, the first 100 feet off of the edge of the road right-of-way must be graded and asphalt concrete paved or treated with dust palliative and any existing or proposed entrance gate should be set back a minimum of 20 feet from the road right-of-way line or the length of the longest truck entering the site, and shall not swing outward. Any

encroachment or access over the Southern Pacific Railroad right-of-way would require approval from the owner.

The following agencies provided “no comments” or “no concerns” regarding this application: Caltrans, Road Maintenance and Operations(PW&P), Design Division (PW&P), and Water and Natural Resources Division (PW&P). No other comments specific to the adequacy of streets and highways were expressed by reviewing Agencies or Departments.

Analysis:

The subject parcel has frontage on West Whitesbridge Avenue, which is also known as Highway 180. South Sonoma Avenue and North Solano Avenue, which run to the west and east of the project site respectively, are private roads which are not maintained by the County.

By combining the animals from both dairies at a single location, the total number of traffic trips will be reduced because it will eliminate the need for employees to travel between both locations. The number of milk truck trips may be reduced because all the milk produced by the herd will be collected in a single trip. Trips to provide maintenance and service to the digester are not anticipated to have a significant impact on traffic, as maintenance will only be required a few times each month. The proposed improvements will not otherwise generate traffic beyond what is existing.

Based on the above information, West Whitesbridge Avenue is of sufficient width and pavement to accommodate the proposed use.

Recommended Conditions of Approval:

None

Conclusion:

Finding 2 can be made.

Finding 3: *That the proposed use will have no adverse effect on abutting property and surrounding neighborhood or the permitted use thereof.*

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence*:
North	326 acres	Field Crops	AE-20	None
South	369 acres	Orchard	AE-20	None
East	424.48 acres	Field Crops, Single Family Residence	AE-20	~2,400 feet west
West	48.63 acres 10 acres 94.62 acres 60.92 acres	Grazing Grazing Grazing Grazing/Single Family Residence	AE-20	None None None ~100 feet west

*As measured from the nearest property line of the subject parcel to the residence

Reviewing Agency/Department Comments:

The following agencies provided “no comments” or “no concerns” regarding this application: Agricultural Commissioner, Mid-Valley Water District, Resources (PW&P), Fresno County Sheriff, Environmental Protection Agency Division of Drinking Water (Sole Source Aquifer review).

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

Analysis:

This area is characterized by large parcels of land. Outside of the two dairies and a poultry facility located west of the project site, the land is used for grazing or field crops. The existing dairies are currently authorized to irrigate 24 parcels with treated wastewater produced by the current operations. Consolidation of the facilities will not require the operator to acquire or convert additional land.

It is anticipated that adverse odors from the project will be reduced because the transferred animals will be moved from open corrals to freestall, which reduces their emissions. The digester will capture methane released from manure, further reducing the odor in the area. The applicant prepared an Emissions Analysis to determine potential air quality impacts that would result from this project. In general, due to the consolidation of the dairies, impacts were determined not to be significant. However, the Air District identified certain rules and regulations that the facility would be subject to during operation. Compliance to these existing regulations will ensure that the project does not exceed de minimis emissions levels or adversely impact adjacent properties.

There is a private airstrip which operates on the parcel southwest of the project site; however the orientation of the strip makes it unlikely that planes will fly directly overhead. The proposed improvements meet all Fresno County development standards and will be of similar height to existing facilities on the parcel. Any noise produced by the generator is not likely to impact surrounding properties due to its central location on the subject parcel and distance from property lines.

Outside of these minor reductions, operational characteristics of the facility will not be significantly modified by the approval of this CUP.

Based on the above information, staff believes the proposal will not have an adverse effect upon surrounding properties.

Recommended Conditions of Approval:

None

Conclusion:

Finding 3 can be made.

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

Relevant Policies:	Consistency/Considerations:
<p>Policy LU-A.3: The County may allow by discretionary permit in areas designated Agriculture, special agricultural uses and agriculturally-related activities, including value-added processing facilities, and certain nonagricultural uses listed in Table LU-3. Approval of these and similar uses in areas designated Agriculture shall be subject to the following criteria...</p>	<p>The subject dairy has been operating under policies in the Fresno County Zoning Ordinance which permit the continued operation of Dairies which were permitted prior to adoption of said ordinance. Therefore, this project is consistent with this policy, as the existing use shows compliance to the listed criteria.</p>
<p>Policy LU-A.12 In adopting land uses policies, regulations and programs, the County shall seek to protect agricultural activities from encroachment of incompatible land uses.</p>	<p>While the proposed (commercial) digester is not consistent with the Williamson Act, it is supportive of agricultural operations and therefore is not an encroachment of an incompatible land use.</p>
<p>Policy LU-A.13 The County shall protect agricultural operations from conflicts with nonagricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations.</p>	<p>The proposed digester is located away from the property lines on the subject dairy and therefore no additional buffers are required.</p>
<p>Policy LU-A.14 The County shall ensure that the review of discretionary permits includes an assessment of the conversion of productive agricultural land and that mitigation be required where appropriate.</p>	<p>No productive farmland is proposed to be removed as a result of this application. The new improvements are proposed in areas of the parcel that are currently vacant.</p>
<p>Policy HS-B.1 The County shall review project proposals to identify potential fire hazards and to evaluate the effectiveness of preventive measures to reduce the risk to life and property.</p>	<p>This project was reviewed by the Fresno County Fire Protection District who did not identify any potential fire hazards. Specific fire concerns will be address during the mandatory Site Plan Review.</p>
<p>Policy HS-F.1 The County shall require that facilities that handle hazardous materials or hazardous wastes be designed, constructed, and operated in accordance with applicable hazardous materials and waste management laws and regulations.</p>	<p>The applicant is required to adhere to the California Code of Regulations Title 22, Division 4.5 and is required to file a Hazardous Materials Business Plan.</p>

Reviewing Agency Comments:

County of Fresno Department of Public Works and Planning Policy Planning Division: On September 19, 2017, a Notice of Partial Non-Renewal was recorded to remove the 6.93-acre portion of the parcel known as APN 015-100-21s from Williamson Act Contract No. 262. Therefore, there is no Williamson Act issue regarding this project.

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

Analysis:

Review of this project by the Policy Planning unit determined that the use of the digester with the opportunity for commercial sale of the electricity was not compatible with the Williamson Act Contract. Therefore, the applicant has filed for nonrenewal of the Contract on the area of the parcel where the digester is proposed. No other conflicts with the General Plan were identified.

Based on these factors, the proposed project is consistent with the General Plan.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

None

CONCLUSION:

Based on the factors cited in the analysis, staff believes the required Findings for granting the Unclassified CUP can be made. Staff therefore recommends approval of Unclassified Conditional Use Permit Application No. 3580 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. 7318; and
- Move to determine the required Findings can be made and move to approve Unclassified Conditional Use Permit Application No. 3580, subject to the Mitigation Measures, Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Denial Action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Unclassified Conditional Use Permit Application No. 3580; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Mitigation Measures, recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

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

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
*1.	Biological Resources	Prior to ground-disturbing activities, a qualified biologist shall conduct a habitat assessment for the following species: blunt-nosed leopard lizard, San Joaquin kit fox, Fresno kangaroo rat, tricolored blackbird, burrowing owl, American badger, western spadefoot, and the coast horned lizard. If habitat for such species is determined to be present, additional studies will be necessary to determine the actual presence of special-status species and further mitigation may be required.	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*2.	Biological Resources	In order to reduce impacts to the blunt-nosed leopard lizard (BNLL), if suitable habitat is present, the applicant shall implement the following measures: a. Prior to ground-disturbing activities, but not more than one year in advance of such work, surveys shall be conducted in the areas of the proposed digester and free-stall barns in accordance with the "Approved Survey Methodology for the Blunt-nosed Leopard Lizard" (CDFG 2004). b. If the presence of BNLL is detected, the applicant shall consult with CDFW to determine how to implement ground-disturbing activities to avoid take.	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*3.	Biological Resources	In order to reduce impact to the San Joaquin Kit Fox (SJKF), if suitable habitat is present, the applicant shall implement the following measures: a. Not more than 30 days prior to and not less than 14 days earlier than the start of ground-disturbing activities, a qualified biologist shall assess the presence or absence of SJKF by conducting surveys following US Fish and Wildlife Service's	Applicant	Applicant/PW&P	Prior to ground-disturbing activities

		<p>(USFWS) “Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance” (2011).</p> <p>b. If SJKF is determined to be present at the site, the applicant shall consult with CDFW to determine how to avoid take, or if avoidance is not feasible, shall acquire an Incidental Take Permit prior to ground-disturbing activities.</p>			
*4.	Biological Resources	<p>In order to reduce impacts to the Fresno Kangaroo Rat (FKR), if suitable habitat is present, the applicant shall implement the following measures:</p> <p>a. Focused protocol-level trapping surveys shall be conducted by a qualified biologist in accordance with USFWS’s “Survey Protocol for Determining Presence of Fresno Kangaroo Rats” (2013).</p> <p>b. If FKR is detected, the applicant shall consult with CDFW to discuss avoidance measures.</p>	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*5.	Biological Resources	<p>In order to reduce impacts to the Tricolored Blackbird (TRBL), the following measures shall be implemented:</p> <p>a. If construction occurs outside normal breeding season (February 1 through September 14), no additional mitigation is necessary to avoid impacts.</p> <p>b. If construction occurs during normal breeding season, a qualified wildlife biologist shall conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation.</p> <p>c. If pre-construction surveys indicate the presence of an active TRBL nesting colony, a minimum 300-foot no-disturbance buffer shall be established, in accordance with CDFW’s “Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields” (2015). Prior to removal of the buffer, a qualified biologist must determine that nesting has ceased or the birds have fledged. The buffers may be removed once the nesting season has ended.</p>	Applicant	Applicant/PW&P	Prior to ground-disturbing activities

		d. If pre-construction surveys indicate the presence of TRBL, the applicant shall consult with CDFW to avoid take, or shall obtain an Incidental Take Permit.			
*6.	Biological Resources	<p>In order to reduce impacts to the Burrowing Owl (BUOW), if suitable habitat is present, the following measures shall be implemented:</p> <p>a. Surveys shall be conducted by a qualified biologist to determine the presence or absence of BUOW at the project site and within a 500-foot buffer of the project site. These surveys shall follow the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012).</p> <p>b. If BUOW is determined to be present at the project site, no-disturbance buffers as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012) shall be implemented prior to and during all ground-disturbing activities. The buffer zones recommended by the "Staff Report" shall be implemented unless a qualified biologist, approved by CDFW, verifies through non-invasive methods that either: the birds have not begun egg-laying and incubation; or that the juveniles from the occupied burrows are foraging independently and are capable of independent survival.</p> <p>If it is not feasible to implement buffers as outlined by the "Staff Report", a qualified biologist may perform burrow exclusion to remove BUOW from the project site. Burrow exclusion shall occur only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods. Artificial burrows shall be created at a 1:1 ratio for each exclusion.</p>	Applicant	Applicant/PW&P	Prior to ground-disturbing activities
*7.	Biological Resources	In order to reduce impacts to the American Badger, the western spadefoot, and the coast horned lizard, if	Applicant	Applicant/PW&P	Prior to ground-disturbing activities

		<p>suitable habitat is present, the following measures shall be implemented:</p> <ul style="list-style-type: none"> a. Surveys shall be conducted by a qualified biologist to determine if species are present. b. 50-foot no-disturbance buffers shall be implemented around any identified burrows and dens. 			
*8.	Cultural Resources	<p>In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist should be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours. The applicant must notify the Table Mountain Rancheria Tribal Government by email at rpennell@tmr.org and the Picayune Rancheria of Chukchansi Indians by email at THarter@chukchansi-nsn.gov of any archeological finds.</p>	Applicant	Applicant/PW&P	During ground-disturbing activities.

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

Conditions of Approval	
1.	Development of the property shall be in accordance with the Site Plan, Floor Plans, Elevations and Operational Statement approved by the Commission.
2.	Prior to occupancy, a Site Plan Review shall be submitted to and approved by the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include: design of parking and circulation areas, access, on-site grading and drainage, fire protection, landscaping, signage and lighting.

Notes

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

1.	The following requirements were provided by the Central Valley Regional Water Quality Control Board: Provision E.3 of the Digester Order requires the submittal of a Report of Waste Discharge. Upon completion of construction of the proposed anaerobic digester, several of the Provisions in Section E of the Digester Order requiring submission of technical reports will be past-due and will need to be submitted as soon as practicable.
2.	Prior to the production of compost from operations of the digester, the facility shall apply for and obtain a permit to operate a Solid Waste Facility from the County of Fresno, Environmental Health Division acting as the Local Enforcement Agency (LEA). Please contact Solid Waste staff at (559) 600-3271 for more information.
3.	Prior to issuance of building permits, the applicant will be required to submit complete construction plans and specifications for the new freestall barns for review and approval. Plans shall be submitted to California Department of Food and Agriculture, and County of Fresno, Environmental Health Division, Please contact John Smith at (559) 600-3357 for more information.
4.	Within 30 days of the occurrence of any of the following events the applicant/operators shall update their online Hazardous Materials Business Plan and site map (http://cers.calepa.ca.gov/ or https://www.fresnocupa.com/) 1. There is a 100% or more increase in the quantities of a previously disclosed material; 2. The facility begins handling a previously undisclosed material at or above the HMBP threshold amounts. The business shall certify that a review of the business plan has been conducted at least once every year and that any necessary changes were made and that the changes were submitted to the local agency. Contact the Certified Unified Program Agency at (559) 600-3271 for more information.
5.	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.
6.	Construction plans, permits and inspections will be required for all proposed construction. Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of Fresno County Ordinance. Note that grading import is not allowed for the development of the proposed work within the flood zone
7.	Any additional runoff generated by the proposed development of a site cannot be drained across property lines, or into the Caltrans right-of-way, and must be retained on-site, per County Standards.
8.	Any existing or proposed parking area should comply with the Fresno County Off-street Parking Design Standards.

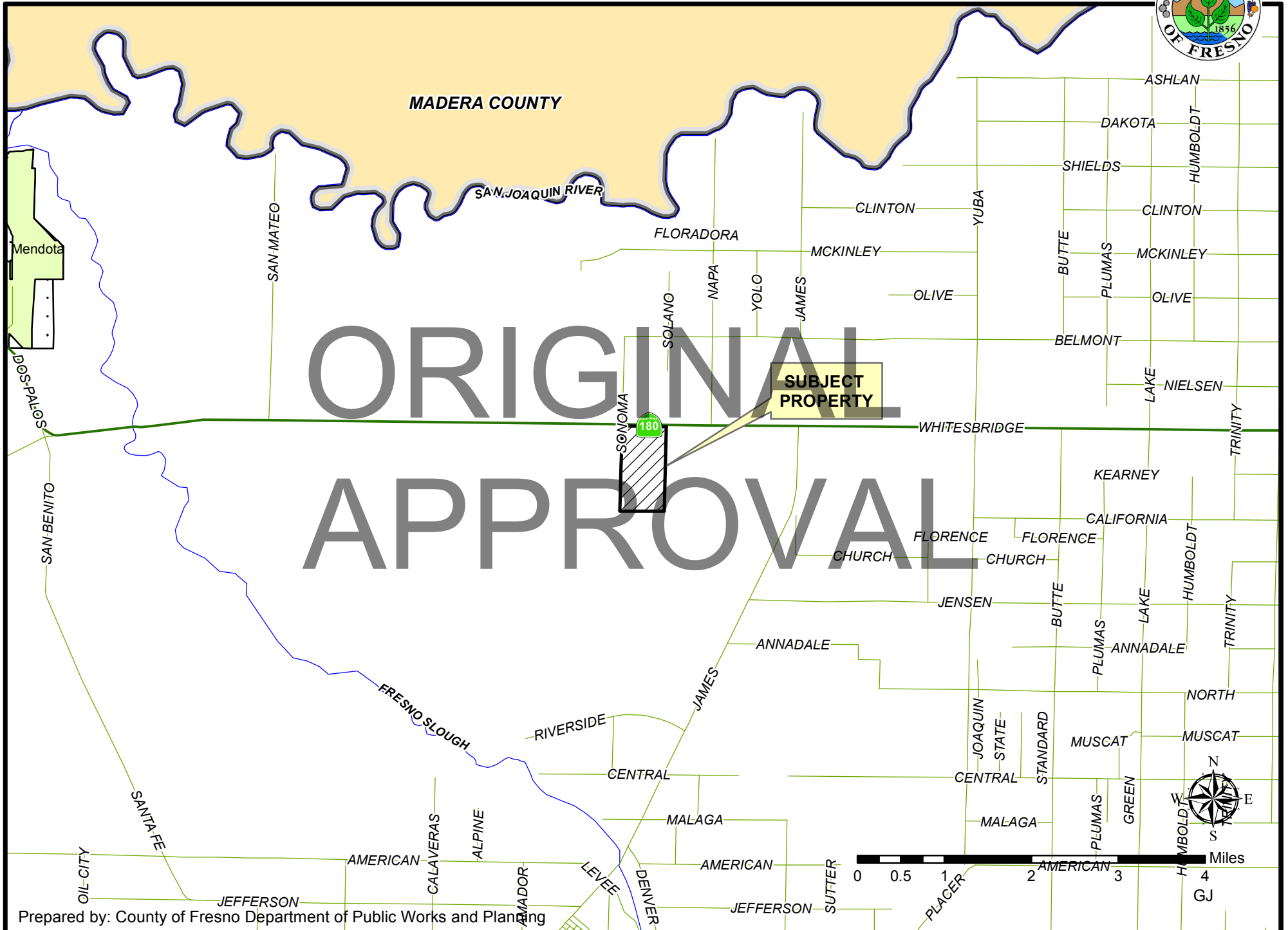
Notes	
9.	A grading permit or voucher is required for any grading proposed with this application
10.	Any proposed driveway should be set back a minimum of 10 feet from the property line. For unpaved or gravel surface access roads, the first 100 feet off of the edge of the road right-of-way must be graded and asphalt concrete paved or treated with dust palliative and any existing or proposed entrance gate should be set back a minimum of 20 feet from the road right-of-way line or the length of the longest truck entering the site, and shall not swing outward.
11.	Any encroachment or access over the Southern Pacific Railroad right-of-way would require approval from the owner.
12.	Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of Fresno County Ordinance. Note that grading import is not allowed for the development of the proposed work within the flood zone. Any dirt material used for grading must be obtained within the designated flood area as to not cause an impact to the determined area of flooding.

CMM

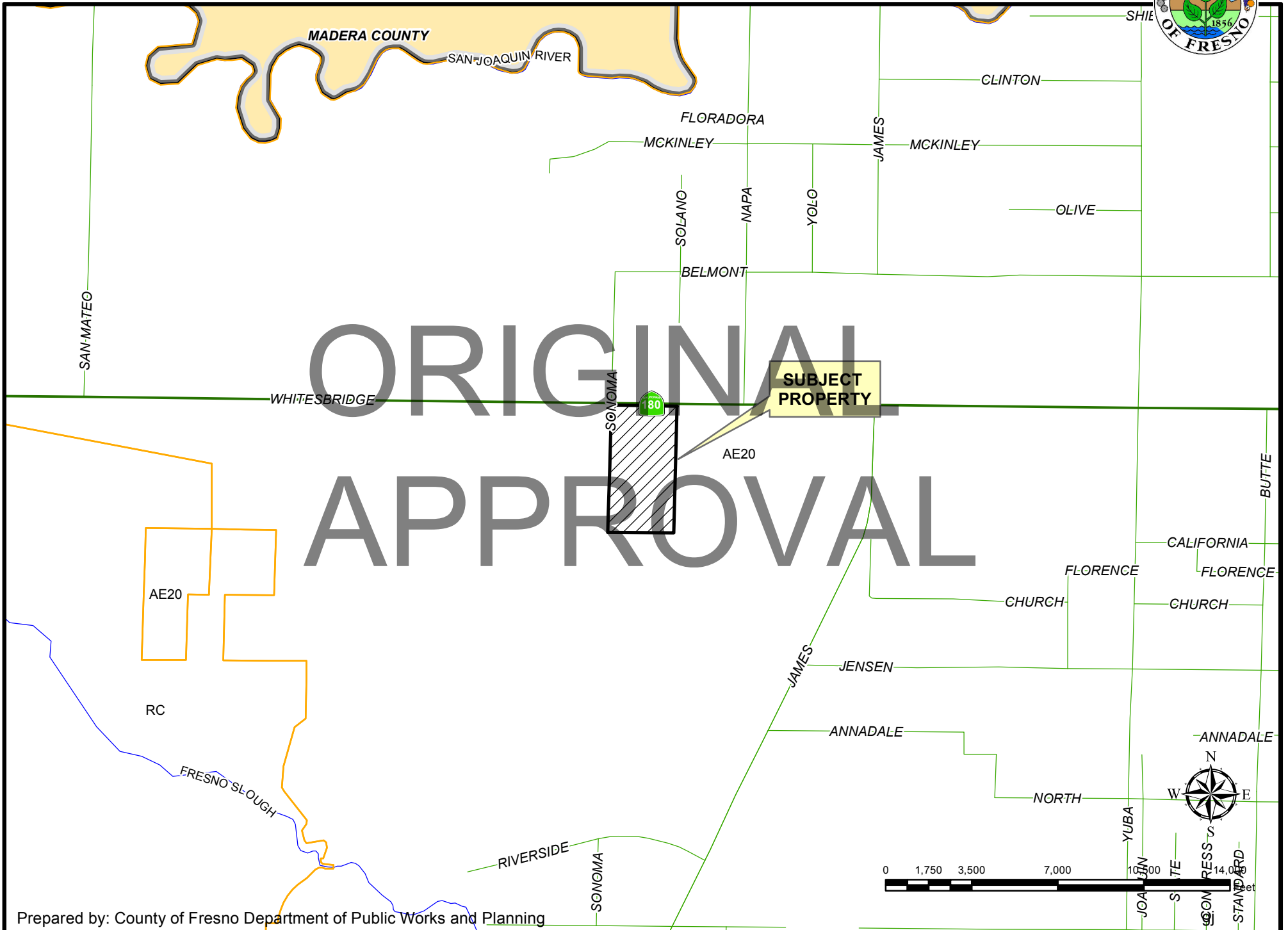
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ORIGINAL
 APPROVAL

LOCATION MAP



EXISTING ZONING MAP



ORIGINAL
APPROVAL

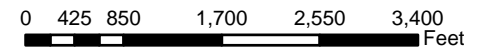
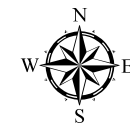
EXISTING LAND USE MAP



LEGEND	
DAIRY	
FC - FIELD CROP	
GRZ - GRAZING	
ORC - ORCHARD	
SF#- SINGLE FAMILY RESIDENC	
V - VACANT	

LEGEND:

-  Subject Property
-  Ag Contract Land

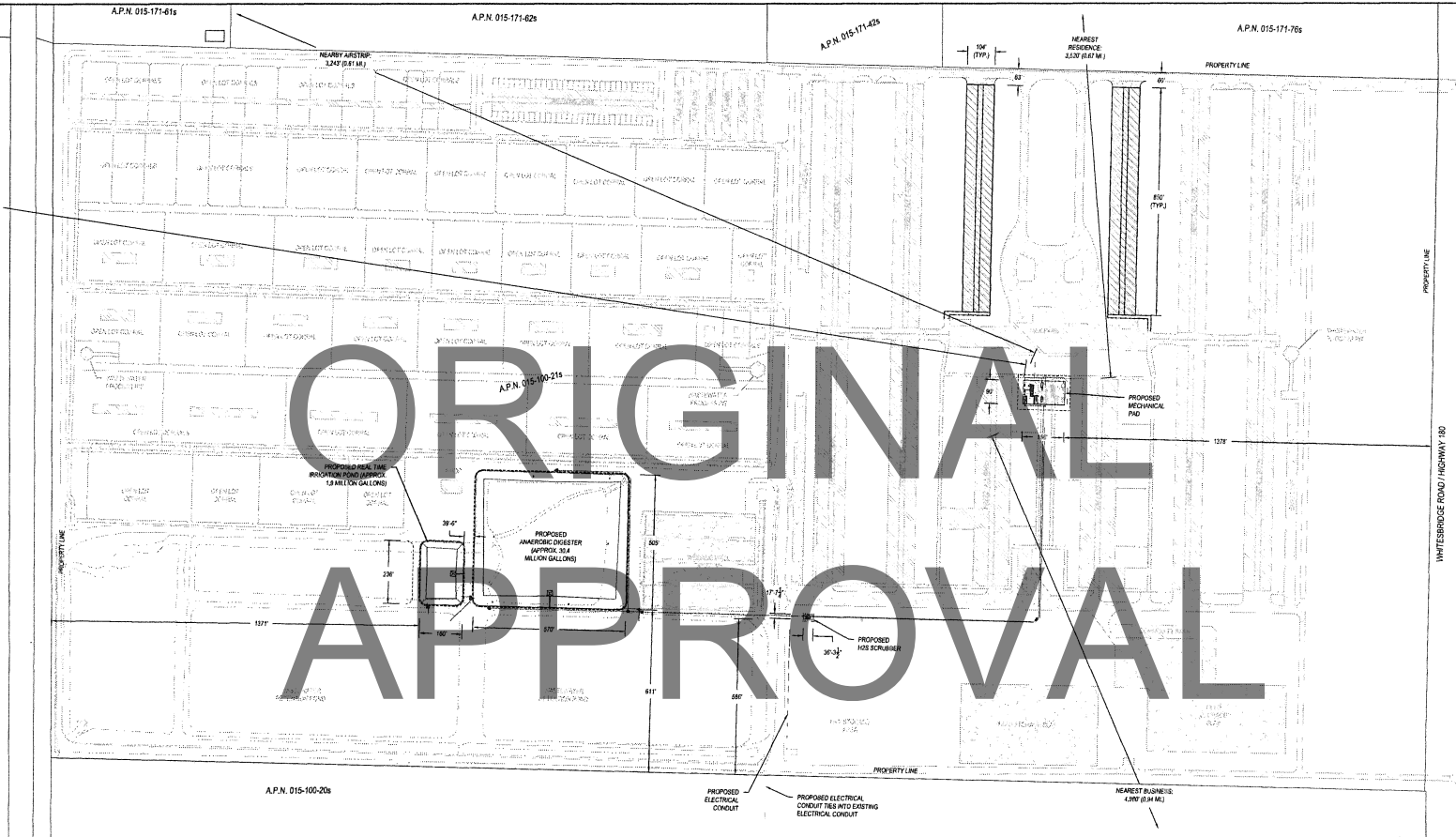


Department of Public Works and Planning
Development Services Division

BAR 20 DAIRY, FRESNO COUNTY

EXHIBIT 5

A.P.N. 015-100-06



LEGEND

- EXISTING FENCELINE
- PROPOSED FENCELINE
- PROPOSED ELECTRICAL CONDUIT
- PROPOSED WATER PIPING
- PROPOSED BIOSAS PIPING
- EXISTING CONCRETE
- PROPOSED CONCRETE
- EXISTING SHADERSTRUCTURE
- PROPOSED SHADERSTRUCTURE
- PROPOSED DIGESTER POND EXTENTS

OWNER STEPHEN SHEHADEY
SITE ADDRESS 24387 W. WHITESBRIDGE AVENUE
 Kerman, CA 93630
COUNTY FRESNO COUNTY
A.P.N. 015-100-21s

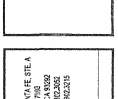
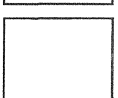
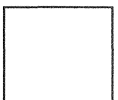
HERD SUMMARY		
DESCRIPTION	CURRENT HERD INDEX	PROPOSED HERD INDEX
MILK COWS	6,800	6,800
DRY COWS	1,020	1,020
HEIFERS: 15-24 MO.	2,367	2,367
HEIFERS: 7-14 MO.	1,893	1,893
HEIFERS: 4-6 MO.	710	710
CALVES: UP TO 3 MO.	710	710
TOTAL	13,500	15,500

CURRENT PERMIT (CUP 3215)		
DESCRIPTION	PERMITTED HERD	PROPOSED HERD
MILKING COWS	6,800	6,800
NON-MILKING COWS	6,700	6,700
TOTAL	13,500	15,500

PROPOSED SITE PLAN

SCALE: 1" = 200'

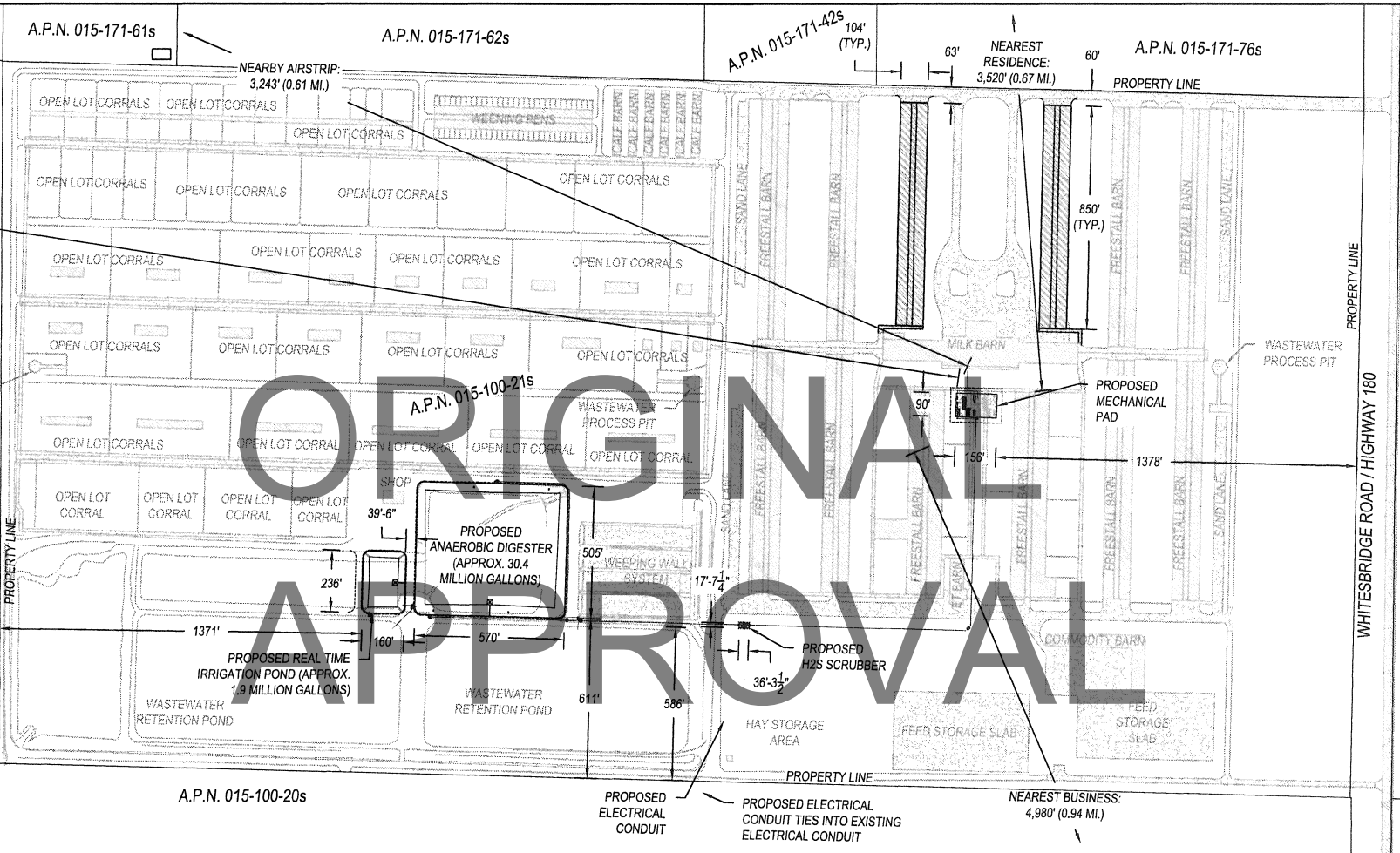
REVISED	DATE	BY	DESCRIPTION



PREPARED BY: **4CREEKS** ENGINEERS
 105 S. MAIN ST. STE. A
 PO BOX 1100
 Kerman, CA 93630
 FAX: 559-832-2125

PROJECT: **BAR 20 DAIRY**
 24387 WHITESBRIDGE AVENUE
 Kerman, CA 93630
DAIRY FACILITY MODIFICATIONS
PROPOSED SITE PLAN

PLT DATE: Aug 23, 2017
 JOB NO.: 17063
 FILE NAME: 17063-SP
 SCALE: SEE SHEET
 SHEET NO.: 1 OF 1



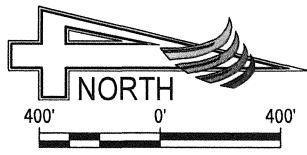
ORIGINAL APPROVAL

17083
SITE PLAN
8/18/2017
1" = 40'

A.P.N. 015-100-08s


PROPOSED SITE PLAN
BAR 20 DAIRY
FRESNO COUNTY, CA

OWNER BAR 20 DAIRY, LLC
SITE ADDRESS 24387 W. WHITESBRIDGE AVENUE
KERMAN, CA 93630
COUNTY FRESNO COUNTY
A.P.N. 015-100-21s



LEGEND	
	EXISTING FENCELINE
	PROPOSED FENCELINE
	PROPOSED ELECTRICAL CONDUIT
	PROPOSED WATER PIPING
	PROPOSED BIOGAS PIPING
	EXISTING CONCRETE
	PROPOSED CONCRETE
	EXISTING SHADE/STRUCTURE
	PROPOSED SHADE/STRUCTURE
	PROPOSED DIGESTER POND EXTENTS

324 S. Santa Fe, Ste. A
Visalia, CA 93292
(559) 922-8152
www.4creeks.com



DATE	BY	DESCRIPTION	REVISIONS

PREPARED BY: **4CRECKS**
 CHECKED BY: **CKM/RT/DGS**
 124 S. SMITH ST. #10
 P.O. BOX 7818
 RAYLAND, CA 95552
 TEL: 916.228.2828
 FAX: 916.228.2815

BARN 20 DAIRY
 2000 W. MONTGOMERY AVENUE
 RAYLAND, CA 95552
FREESTALL ELEVATION & FLOOR PLAN

PROJECT NO.:	Aug 20, 2017
DATE:	17083
BY:	RTD
SCALE:	1/8" = 1'-0"
SHEET NO.:	1 OF 1

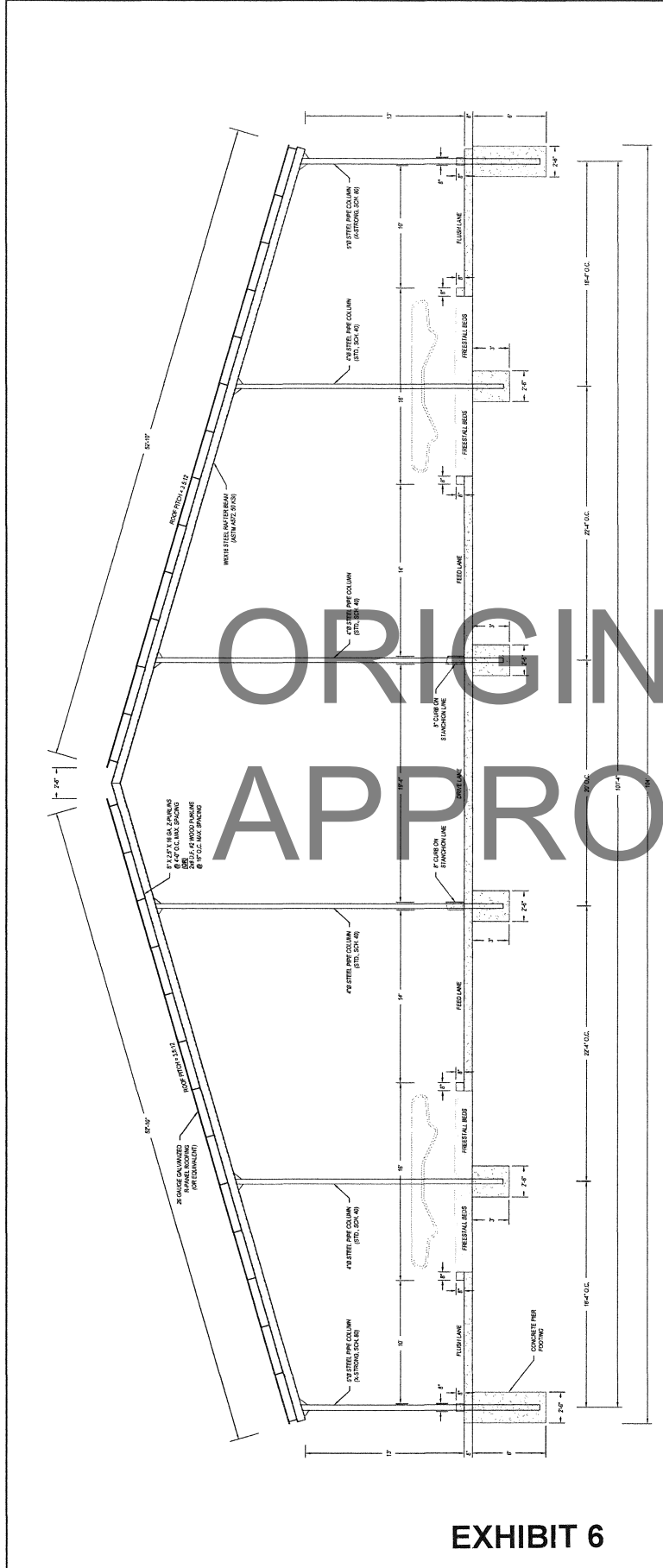
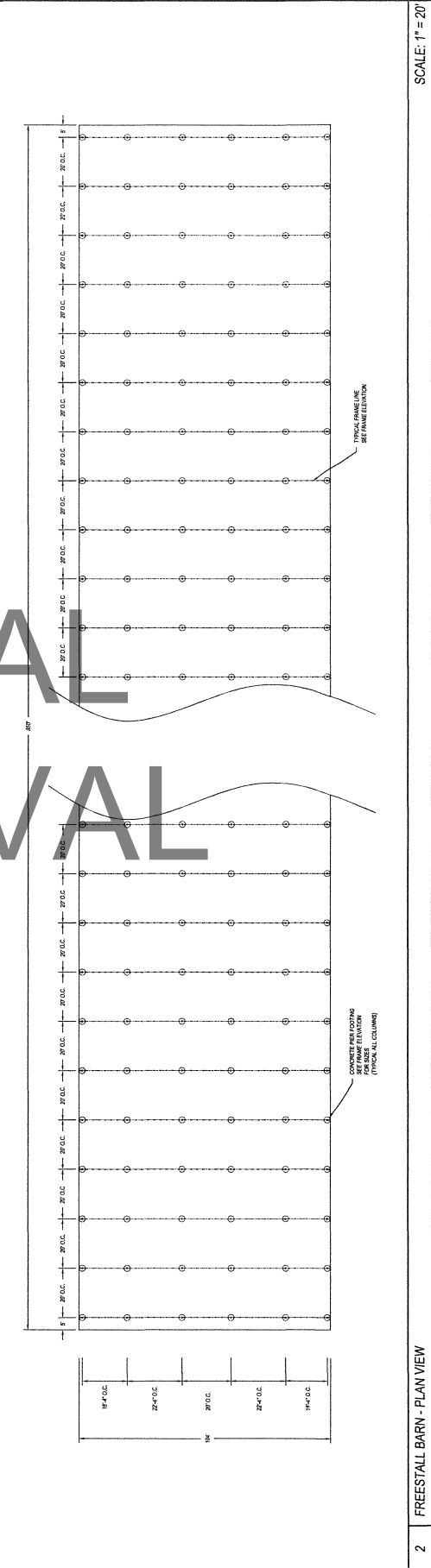


EXHIBIT 6

1 FREESTALL BARN - FRAME ELEVATION SCALE: 1" = 4'



2 FREESTALL BARN - PLAN VIEW SCALE: 1" = 20'



BAR 20 DAIRY
OPERATIONAL STATEMENT:

RECEIVED
COUNTY OF FRESNO

FEB 15 2018

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

CUP 3580

1. **Nature of operation—what do you propose to do? Describe in detail.**

Bar 20 Dairy (Facility) is an existing dairy facility located in Kerman, California.

The owners of the Facility would like to propose the construction, installation, and operation of an anaerobic digester. This includes the lining and covering of a new pond on-site, to standards required by the Regional Water Quality Control Board (RWQCB). This also includes an H₂S scrubber, and a mechanical pad, which includes two (2) 1-MW generators to utilize the biogas to produce electricity.

The owners of the Facility would also like to propose to consolidate another dairy facility to the subject property. This proposal is to move all animals from Bar 20 Dairy No. 3 (north of Whitesbridge) to the Facility (subject property, south of Whitesbridge). This proposes the total number of animals to reach 10,839 milking cows and/or 20,616 non-milking animals at the Facility. Lastly, the modification would include two (2) additional freestall barns to house the additional animals. Please see the site plans for details.

2. **Operational time limits**

The operation of the Facility remains consistent throughout the year. The Facility operates 24 hours per day, 7 days per week. The milk cows are milked twice per day, and this routine governs the milkers' schedule. There are two shifts for milkers, per 24 hours, each approximately 10 hours. Feeders, herdsmen, maintenance, and other employees work between the hours of 4:00AM and 6:00PM. The proposed project will not affect the operational time limits.

3. **Number of customers or visitors:**

The number of visitors per day range depending on the day of week and the time of year. On average, about 15 visitors (which include family members of employees, consultants to the dairy, or salesman) visit per weekday, between the hours of 6:00AM and 5:00PM. The proposed project will not affect the number of customers or visitors on-site.

4. **Number of employees:**

The current total number of employees is approximately 80 people. The proposed project will not impose a need for additional employees. Services for the digester and mechanical equipment shall be provided part-time by the digester operations team.

5. **Service and delivery vehicles:**

Service and Delivery vehicles visit regularly at the dairy to provide feed, pick up the milk, haul animals, provide mechanical services, provide veterinary and breeding services, and fuel deliveries. With the proposed modifications, a minor amount of limited additional maintenance and service vehicles will visit the site, but only a few times per month.

6. **Access to the site:**

The Facility is located south of Whitesbridge Road (or Highway 180) between N. San Mateo Avenue and N. Napa Avenue. There are two (2) paved access points to the Facility from Whitesbridge Road.

7. **Number of parking spaces for employees, customers, and service/delivery vehicles.**

Majority of parking occurs adjacent to the milk barn as well as adjacent to the shop. Adjacent to the milk barn is approximately one hundred (100) marked and unmarked parking spaces, including one (1) marked for ADA Accessibility under the western shade of the milk barn structure. The proposed project will not impose the need for additional parking spaces.

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8. Are there any goods to be sold on-site? If so, are these goods grown or produced on-site or at some other location?

Milk is produced on-site, and picked up by Producers Dairy Foods several times each day. With the addition of the proposed digester project, electricity will be produced by the generators from the biogas and collected in the digester, which will be connected to the local utility electrical grid.

9. What equipment is used?

Tractors and feed trucks are used on-site for feeding the animals. In the milk barn, vacuum pumps, plate coolers, and other milk handling equipment are used in compliance with the California Code of Regulations. The proposed digester project will include additional equipment including two (2) 1-MW generators along with an H₂S Scrubber to clean the biogas collected in the digester.

10. What supplies or materials are used and how are they stored?

Various supplies and materials are stored and used within the milk barn for milk tank sanitation. The proposed project will use (a) urea for NO_x reduction system and (b) iron oxide media as part of H₂S removal system. Used and new engine oil will also be stored on-site.

11. Does the use cause an unsightly appearance?

There is an existing buffer of 500 feet between the paved street and the extents of the Facility production area, which reduces any aesthetic impacts of the Facility. The proposed project will not affect the impacts on dust, odor, or any aesthetics near the Facility. The proposed project will likely decrease odor by capturing biogas from current uncovered ponds.

12. List any solid or liquid wastes to be produced.

Solid manure is produced on-site, stored, and applied to contiguous farmland at agronomic rates. Liquid wastewater is also produced, stored, and applied similarly. Some solid manure is also delivered off-site, which is monitored by the Facility as required by the Regional Water Quality Control Board.

13. Estimated volume of water to be used (gallons per day).

The estimated volume of water to be used at the dairy Facility will slightly increase due to the increase in animal units. The digester will neither generate nor use more water than the Facility utilizes, which ranges throughout the various seasons of the year. It would be expected that the on-site water usage will increase from 233,490 gallons per day to 319,887 gallons per day (simple consolidation of the two facilities) during the required 120-day storage period as required by the Regional Water Quality Control Board. However, in transferring all animals to the same production area, the average water usage (gallons per day per cow) is projected to decrease due to the operational efficiency of milking and maintaining all animals at the same site.

It must be noted that, while the herd size of animals housed on-site will increase, the existing wastewater retention ponds at the adjacent facility will still be utilized for wastewater storage via piped drain lines. Further, all existing wastewater storage ponds will remain in service of the same number of animals after the proposed modifications, while the animals will be consolidated to the same production area for operational efficiency. All wastewater generated at the Facility will continue to be recycled agronomically for land application and crop use.

14. Describe any proposed advertising including size, appearance, and placement.

Not applicable to this operation.

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- 15. Will existing buildings be used or will new buildings be constructed?**
All existing buildings of the Facility will remain intact. A new building for the mechanical generators will be used for the operation of the Facility. Two (2) new freestall barns will also be constructed to house the additional animals. These structures can be found on the attached site plan.
- 16. Explain which buildings or what portion of buildings will be used in the operation.**
Please see the attached site plan for building location specifics.
- 17. Will any outdoor lighting or an outdoor sound amplification system be used?**
All outdoor lighting is existing. The proposed project does not include the addition of outdoor lighting, nor outdoor sound amplification systems.
- 18. Landscaping or fencing proposed?**
Some fencing is proposed for animal confinement to accommodate for the proposed mechanical pad, but all fencing is within existing animal confinement areas. Please see the attached site plan for specifics.
- 19. Any other information that will provide a clear understanding of the project or operation.**
The proposed modification to the Facility will not modify the Facility footprint as currently operated. The purpose of the project is to generate electricity using the biogas created by the animals to reduce methane emissions. The project has a very minor impact to existing operations of the dairy Facility once constructed and operational.
- 20. Identify all Owners, Officers and/or Board Members for each application submitted.**
The owner of the dairy is Bar 20 Dairy, LLC, which is overseen by Stephen Shehadey.

ORIGINAL
APPROVAL

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County of Fresno

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

EVALUATION OF ENVIRONMENTAL IMPACTS

APPLICANT: Stephen Shehadey

APPLICATION NOS.: Initial Study Application No. 7318 and Unclassified
Conditional Use Permit Application No. 3580

DESCRIPTION: Allow an **approximately 30.4 million-gallon** anaerobic digester for the collection of methane to be constructed on a 6.93-acre portion of an existing dairy facility; allow an increase to the herd size to a maximum of 10,839 milking cows and 20,616 non-milking animals due to a transfer of animals from the Bar 20 Dairy No. 3; and construct two new free-stall barns to house said animals on a 324.66-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the south side of Whitesbridge Avenue, between San Mateo Avenue and James Road, addressed as 24387 W. Whitesbridge Avenue, Kerman (Sup. Dist.1) (APN 015-100-21S)

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; or
- 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: NO IMPACT:

The proposed digester will be located more than 3,000 feet south of the nearest roadway, Highway 180. The main covered area of the digester will be only slightly above-grade and is not likely to impact the view. The above-ground portions of the digester, such as the mechanical pad and associated equipment will meet all development standards without the need for a variance. There are no new sources of

lighting proposed as part of this application; however, existing exterior lights are present at the site.

II. AGRICULTURAL AND FORESTRY RESOURCES

- A. Would the project convert prime or unique farmlands or farmland of state-wide importance to non-agricultural use?

FINDING: NO IMPACT:

This parcel has been designated by the Fresno County 2014 Important Farmlands map as Confined Animal Agriculture (CA). In Fresno County, this is considered Farmland of Local Importance. Therefore, there will be no impact to prime farmlands, unique farmlands, or farmland of state-wide importance.

- B. Would the project conflict with existing agricultural zoning or Williamson Act Contracts?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The entire parcel was restricted by Williamson Act Contract No. 262; however, when a digester is used to produce and sell energy (as opposed to producing energy for use at the site), then the use is not considered to be compatible with the Williamson Act. On September 19, 2017, a notice of partial non-renewal was recorded to remove the 6.93-acre portion of the parcel from the existing Williamson Act Contract. Approximately 318 acres of this parcel remain under contract. Due to the extensive acreage remaining under contract and the nature of the digester to support the agricultural use, impacts to the Contract will be less than significant.

This parcel is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). The proposed herd increase and anaerobic digester are allowed under this zoning through the approval of an Unclassified Conditional Use Permit. There are no conflicts with the existing zoning.

- 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: NO IMPACT:

The subject parcel is not located near any forestland or other land zoned for timberland production and therefore will have no impacts upon such lands. The nature of this project to install a digester and increase the herd size at an existing dairy will not result in the

conversion of adjacent agricultural lands. The two portions of this parcel that were removed from the Williamson Act Contract are located more than 1,000 feet from the closest property line. Therefore, Williamson Act Contract No. 262 continues to provide a buffer of agricultural uses to the surrounding properties. Further, while the digester is not considered to be a use compatible with Williamson Act Contract, it benefits agricultural activities in the area and therefore will not result in the conversion of other land.

III. AIR QUALITY

- A. Would the project conflict with or obstruct implementation of the applicable Air Quality Plan; or
- B. Would the project violate 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?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project site is in an area of nonattainment for Ozone, PM_{2.5} and PM₁₀ (particulate matter <2.5 mm and <10mm); however, the proposed increase in herd size will be due to a transfer of animals from another permitted dairy located on the opposite corner of Highway 180 and S. Sonoma Avenue from the subject parcel. The San Joaquin Valley Air Pollution Control District currently regulates these two dairies as a single source; however, they operate under separate authorizations through the County of Fresno because they were developed at different times. The transfer will move these animals from their current open-lot corrals to new free-stall barns, which will result in an anticipated decrease of PM₁₀ emissions by approximately 6.69 lbs/hd-yr.

It is further anticipated that this transfer of these animals will reduce emissions by reducing employee and delivery trips, since employees will not need to travel to two sites and the milk may be transferred alongside existing deliveries.

The following activities are anticipated during construction: minimal grading of the existing pond (the proposed digester), minimal grading at the location of the free-stall barns, construction of the mechanical pad for digester engines, and lining and covering of the digester pond. Combined estimated emissions in tons per year from construction are: 4.32 NO_x (nitrogen oxides), 0.21 ROG (reactive organic gas), 0.22 PM₁₀, 5.40 ozone, and 0.01 SO_x (Sulfur dioxide). The demolition of the north facility, where the transferred animals are sourced, is a reasonable expansion of impacts from this project. Said demolition is anticipated to release (in tons/year) 3.55 NO_x, 0.17 ROG, 0.19 PM₁₀, 4.52 CO, and 0.01 SO_x. The Air District's review of these estimations confirmed that they are anticipated to remain below significance thresholds for increases to criteria pollutants.

- D. Would the project expose sensitive receptors to substantial pollutant concentrations; or
- E. Would the project create objectionable odors affecting a substantial number of people?

FINDING: NO IMPACT:

Sensitive receptors include hospitals, schools, elderly housing, and some residential developments. The area in the vicinity of the project site does not contain any such locations; the surrounding area is agricultural in nature. The nearest residence is approximately 2,400 feet from the nearest property line and not likely to be impacted by the estimated level of emissions.

Following construction, all manure and wastewater on the site will be treated by an anaerobic digester, which will reduce the amount of methane in the air, thereby reducing objectionable odors from manure.

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?

FINDING: LESS THEN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The existing conditions at the project site consist of an established dairy with open lot corrals, weaning pens, and calf barns in the southwestern portion of the parcel; freestall barns, a vet barn, and a milk barn in the northwestern two-thirds; two feed storage slabs, hay storage, and a commodity barn in the northeastern portion; and two wastewater retention ponds in the southeastern portion. The area around these structures has been cleared of debris and landscaping. To the west is undeveloped land comprised of annual grassland, which could provide habitat for numerous special-status species, according to the California Department of Fish and Wildlife (CDFW). Therefore, the potential exists for such species to be present at the project site. In order to reduce impacts to these species, the applicant shall first perform site-specific, habitat assessment surveys, then shall follow appropriate mitigation as identified below:

* **Mitigation Measures**

1. *Prior to ground-disturbing activities, a qualified biologist shall conduct a habitat assessment for the following species: blunt-nosed leopard lizard, San Joaquin kit fox, Fresno kangaroo rat, tricolored blackbird, burrowing owl, American badger, western spadefoot, and the coast horned lizard. If habitat for such species is determined to be present, additional studies will be necessary to determine the actual presence of special-status species and further mitigation may be required.*
2. *In order to reduce impacts to the blunt-nosed leopard lizard (BNLL), if suitable habitat is present, the applicant shall implement the following measures:*
 - a. *Prior to ground-disturbing activities, but not more than one year in advance of such work, surveys shall be conducted in the areas of the proposed digester*

- and free-stall barns in accordance with the “Approved Survey Methodology for the Blunt-nosed Leopard Lizard” (CDFG 2004).*
- b. If the presence of BNLL is detected, the applicant shall consult with CDFW to determine how to implement ground-disturbing activities to avoid take.*
 - 3. In order to reduce impact to the San Joaquin Kit Fox (SJKF), if suitable habitat is present, the applicant shall implement the following measures:*
 - a. Not more than 30 days prior to and not less than 14 days earlier than the start of ground-disturbing activities, a qualified biologist shall assess the presence or absence of SJKF by conducting surveys following US Fish and Wildlife Service’s (USFWS) “Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance” (2011).*
 - b. If SJKF is determined to be present at the site, the applicant shall consult with CDFW to determine how to avoid take, or if avoidance is not feasible, shall acquire an Incidental Take Permit prior to ground-disturbing activities.*
 - 4. In order to reduce impacts to the Fresno Kangaroo Rat (FKR), if suitable habitat is present, the applicant shall implement the following measures:*
 - a. Focused protocol-level trapping surveys shall be conducted by a qualified biologist in accordance with USFWS’s “Survey Protocol for Determining Presence of Fresno Kangaroo Rats” (2013).*
 - b. If FKR is detected, the applicant shall consult with CDFW to discuss avoidance measures.*
 - 5. In order to reduce impacts to the Tricolored Blackbird (TRBL), the following measures shall be implemented:*
 - a. If construction occurs outside normal breeding season (February 1 through September 14), no additional mitigation is necessary to avoid impacts.*
 - b. If construction occurs during normal breeding season, a qualified wildlife biologist shall conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation.*
 - c. If pre-construction surveys indicate the presence of an active TRBL nesting colony, a minimum 300-foot no-disturbance buffer shall be established, in accordance with CDFW’s “Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields” (2015). Prior to removal of the buffer, a qualified biologist must determine that nesting has ceased or the birds have fledged. The buffers may be removed once the nesting season has ended.*
 - d. If pre-construction surveys indicate the presence of TRBL, the applicant shall consult with CDFW to avoid take, or shall obtain an Incidental Take Permit.*
 - 6. In order to reduce impacts to the Burrowing Owl (BUOW), if suitable habitat is present, the following measures shall be implemented:*
 - a. Surveys shall be conducted by a qualified biologist to determine the presence or absence of BUOW at the project site and within a 500-foot buffer of the project site. These surveys shall follow the California Burrowing Owl*

Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012).

- b. *If BUOW is determined to be present at the project site, no-disturbance buffers as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012) shall be implemented prior to and during all ground-disturbing activities. The buffer zones recommended by the "Staff Report" shall be implemented unless a qualified biologist, approved by CDFW, verifies through non-invasive methods that either: the birds have not begun egg-laying and incubation; or that the juveniles from the occupied burrows are foraging independently and are capable of independent survival.*
 - c. *If it is not feasible to implement buffers as outlined by the "Staff Report", a qualified biologist may perform burrow exclusion to remove BUOW from the project site. Burrow exclusion shall occur only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods. Artificial burrows shall be created at a 1:1 ratio for each exclusion.*
7. *In order to reduce impacts to the American Badger, the western spadefoot, and the coast horned lizard, if suitable habitat is present, the following measures shall be implemented:*
- a. *Surveys shall be conducted by a qualified biologist to determine if species are present.*
 - b. *50-foot no-disturbance buffers shall be implemented around any identified burrows and dens.*
- 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 Wildlife (CDFW) 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?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The U.S. Fish and Wildlife Service's Wetlands Mapper shows several wetlands which occur on the project site; however, no seasonal flooding occurs on site due to the existing grading and drainage plan. All open lot corrals are maintained with minimum slopes for property drainage to the wastewater retention ponds, or to local low spots where water is manually pumped to the wastewater ponds. This project is exempt from a Section 404 review under Section 404(f)(1) of the Clean Water Act (established farming, ranching, or silviculture activities).

- 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: NO IMPACT:

There are no migratory corridors that run through or adjacent to the project site. The anaerobic digester is proposed in an undeveloped area of the parcel within the existing dairy and which is not subject to a Habitat Conservation Plan, Natural Community Conservation Plan or other local, regional, or state 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 a 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; or
- E. Would the project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Under the provisions of Assembly Bill 52 (AB 52), this project was routed to Table Mountain Rancheria, Santa Rosa Rancheria, Dumna Wo Wah, and the Picayune Rancheria of Chukchansi Indians. Both Table Mountain Rancheria and Picayune Rancheria responded within 30 days and declined to consult, but requested to be notified in the event that cultural resources are uncovered. The Dumna Wo Wah and Santa Rosa Rancheria Tribal Governments did not respond within the deadline and therefore declined consultation.

While no Tribal Entity identified a resource on this parcel, there remains the possibility of uncovering previously unknown cultural resources. Therefore, during construction of the anaerobic digester and free-stall barns, the applicant will be required to halt all work if a resource is uncovered. Appropriate disposition of the find is detailed in the mitigation measure below, including means by which to contact the tribes.

* **Mitigation Measure**

1. *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 follow by photos, reports, videos, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours. The applicant must notify the Table Mountain Rancheria Tribal Government by email at rpennell@tmr.org and the Picayune Rancheria of Chukchansi Indians by email at THarter@chukchansi-nsn.gov of any archeological finds.*

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?
 2. Strong seismic ground shaking?
 3. Seismic-related ground failure, including liquefaction?
 4. Landslides?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The subject parcel is located near two pre-quarternary faults located at the border of Madera and Fresno Counties. These faults are more than 1.6 million years old and have not been active in the modern period. Therefore, impacts from these faults on the project site are unlikely. Additionally, there is no increase in the number of employees proposed as part of this application. Further, Figure 9-5 of the Fresno County General Plan Background Report (FCGPBR) indicates that this parcel is located in an area at low risk of seismic hazards.

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

FINDING: NO IMPACT:

The subject parcel is not likely to result in substantial erosion or loss of topsoil because a water management plan is in place which channels runoff water into the wastewater retention ponds. The site is not located in an area of steep slopes or landslide hazards (Figure 9-6, FCGPBR) or areas where expansive soils are common (Figure 7-1).

- F. 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:

There are no new septic or wastewater facilities proposed with this application. The increase in herd size is not anticipated to increase the use of septic systems on site and therefore the existing systems will be adequate. Review of the system by the Fresno County Department of Public Health did not identify any concerns with the capacity of the existing septic system.

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 any applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Review of the estimated emissions (discussed more completely in Section III) by the Air District determined that with compliance to existing regulations, this project would not generate greenhouse gases that could have a significant effect on the environment and will not be in violation of any plan, policy, or regulation adopted for the purpose of reducing emissions of greenhouse gases. The proposed herd increase results from a transfer of animals from a nearby dairy, and this transfer will place them in free-stall barns, which are more protective of air quality than their existing open lots.

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: NO IMPACT:

The new anaerobic digester will not create a public hazard through the transport, use, or disposal of hazardous materials. This project authorizes the transfer (increase) in herd at the project site and the operation of the anaerobic digester.

- C. Would the project create hazardous emissions or utilize hazardous materials, substances or waste within one quarter-mile of a school?

FINDING: NO IMPACT:

The subject parcel is not located within one quarter-mile of a school. The nearest schools are Tranquillity High School and Tranquillity Elementary School, both of which are more than five miles south of the project site.

- D. Would the project be located on a hazardous materials site?

FINDING: NO IMPACT:

The subject parcel is not located on a hazardous materials site or any Brownfields, Superfund, Toxic Inventory Release, or RCRA facility.

- E. Would a project 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: LESS THAN SIGNIFICANT IMPACT:

The subject parcel is not located in the vicinity of a public or private airport. Review of aerial photographs (Google Earth, August 7, 2017) identified one private airstrip, located west of the subject parcel and just north of the Southern Pacific Railroad. This project is not anticipated to create a safety hazard for people residing or working in the area because the project site is generally located more than 2,000 feet from this location and all development will be within typical development standards. The improvements will be adjacent to and of similar height to existing improvements on the site. The airstrip operates under County Conditional Use Permit No. 2284, which includes a condition that the airstrip will not be operated in a manner to cause a nuisance. Further, the position and orientation of the strip does not encourage flight over the project site.

- G. Would the project impair implementation of or physically interfere with an adopted Emergency Response Plan or Emergency Evacuation Plan; or
- H. Would the project 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:

Approval of this application will not impair the implementation of an Emergency Response Plan or Emergency Evacuation Plan. The subject parcel and other parcels in the vicinity have been determined to be within a non-wildland/non-urban classification of risk for Wildfire and not within an area of state responsibility.

IX. HYDROLOGY AND WATER QUALITY

- A. Would the project violate any water quality standards or waste discharge requirements or otherwise degrade water quality?

FINDING: NO IMPACT:

This project will not violate any water quality standards or waste discharge requirements. Wastewater from the project site will be processed through the digester then applied to Dairy-owned fields. **The existing permitted facility is currently authorized to apply wastewater from the project site to 24 parcels in the vicinity of the proposed digester. Application is consistent with the Nitrogen Budget prepared by a qualified agronomist.** There is no increase to the amount of fields watered in this manner.

- 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; or
- 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; or
- E. Would the project create or contribute run-off which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted run-off; or
- F. Would the project otherwise substantially degrade water quality?

FINDING: NO IMPACT:

All grading on site will be done in compliance with existing County regulations; as part of the permitting process, the applicant will be required to prepare an engineered grading and drainage plan to show how additional runoff generated by the proposed development will be handled without adversely impacting adjacent properties. There are no streams, rivers, or canals running through the project site. Further, total water usage

is likely to decrease as a result of the consolidation of the subject dairy and the dairy across the street, from where the herd increase will be transferred.

G. Would the project place housing within a 100-year floodplain?

FINDING: NO IMPACT:

There is no housing proposed as part of this application.

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

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

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to FEMA Firm Panel 2050H, a large portion of the property is found to be under Flood Zone A which is subject to flooding from the 100-year storm. Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 (Flood Hazard Areas) of the Fresno County Ordinance. No import is allowed for grading associated with development within the flood zone; any dirt material used must be obtained within the designated flood area as to not cause an impact to the determined area of flood. A FEMA Elevation Certificate is required for every structure proposed to be constructed within the flood zone.

The project site is located in an area at risk of inundation due to dam failure; however, compliance to the above-identified regulations (Chapter 15) will reduce these impacts to less than significant. Further, persons and animals at the project site will have been transferred from the adjacent dairy, which is at similar risk.

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

FINDING: NO IMPACT:

The project site is not located near a body of water large enough to produce seiche or tsunami. The lack of steep slopes in the vicinity preclude inundation by mudflow.

X. LAND USE AND PLANNING

A. Will the project physically divide an established community; or

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

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

FINDING: NO IMPACT:

This project will be completely within the existing property lines of the subject parcel and will not impact any nearby communities. Surrounding parcels are improved with dairies and agricultural uses and do not represent an established community. The increased allowed herd numbers and new digester do not conflict with any land use plan or agency ordinances. There are no Habitat Conservation Plans or Natural Community Conservation Plans applicable to the project.

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:

According to Figure 7-7 (FCGPBR), the subject parcel is not located in an area where known mineral resources are located.

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 levels; 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: NO IMPACT:

The operation of a commercial digester and transfer of herd are not anticipated to increase noise levels in the vicinity of the project. As noted earlier, the animals will be transferred from a dairy across the street and therefore increased cow population is not expected to result in significant increase to noise at the site.

- 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: LESS THAN SIGNIFICANT IMPACT:

There is a private airstrip located on the parcel west of the subject parcel; however, the project does not propose an increase to the number of employees present on the site. Currently, those employees work between both dairies and approval of this project would remove the need to travel to the other site. The airstrip is operating under Conditional Use Permit No. 2284, which includes a condition of approval requiring that the airstrip be operated in such a manner as to avoid creating a noise nuisance on surrounding properties. The strip is used to apply necessary treatments to surrounding agricultural developments and was determined to be in an appropriate location (distant from residential uses) at the time of approval. Trips may vary between five and twenty trips per day during the peak season.

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 scope of this project is limited to an increase in herd size, the building of new stalls to house those animals and the installation/operation of an anaerobic digester. These activities will not induce substantial population growth.

The location of the digester and corrals are proposed within the existing dairy operation and will not displace any existing housing.

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;
 - 2. Police protection;
 - 3. Schools;
 - 4. Parks; or
 - 5. Other public facilities?

FINDING: NO IMPACT:

There will be no impacts to public services. The subject parcel is located close enough to the other dairy from which the animals will be transferred that fire and police services will not be impacts. This project will not increase the attendance at local schools or increase the use of public parks or other facilities.

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:

The increase in herd size and the installation of the digester do not have the potential to increase the use of existing parks or other recreational facilities. The energy generated by the digester will be sold to the power company and will help to reduce the amount of coal-produced energy.

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; or
- C. Would the project result in a change in air traffic patterns; or
- D. Would the project substantially increase traffic hazards due to design features; or
- E. Would the project result in inadequate emergency access; or
- 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 increase to the herd size will not result in additional traffic because the additional animals will be transferred from the dairy directly to the northwest of the project site. Due to the proximity of the two dairies, there will be no effective increase in traffic. No traffic will be generated by the proposal to produce energy for sale.

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 new water or wastewater treatment facilities; or
- C. Would the project require or result in the construction or expansion of new storm water drainage facilities; or
- 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; or
- 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: LESS THAN SIGNIFICANT IMPACT:

The existing dairy operates under a waste management plan, which indicates which parcels may receive manure and process wastewater from the dairy operations. Adherence to this plan is required by the Central Valley Regional Water Quality Control Board (CVRWQCB). Wastewater is currently piped to either a recovery tank or a storage lagoon. When the digester is installed, the wastewater drain lines will be rerouted so that all wastewater travels through the anaerobic digester prior to entering the existing retention ponds. Following processing in the digester, remaining water will be applied to dairy-owned fields as irrigation. **The current operation is authorized to apply treated wastewater to 24 parcels in the area.**

Review of this application by the CVRWQCB determined that the proposed increase in head would require the operators to file a new Report of Waste Discharge, due to the increased volume of discharge; however, the Water Resources Division of the Fresno County Department of Public Works and Planning indicated that water usage is likely to decrease as the proposed increase to herd size is due to a complete transfer of animals from a nearby dairy, which will cease operations.

There is sufficient capacity proposed to accommodate all waste generated by the proposed increase in herd. No additional landfill material will be produced in the typical operation of this parcel. Some waste may be produced during construction and demolition of the source facility and such waste will be delivered to a landfill with sufficient capacity. The project will be required to obtain a permit to operate a Solid Waste Facility from the County of Fresno, Environmental Health Division acting as the Local Enforcement Agency.

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 WITH MITIGATION INCORPORATED:

The California Department of Fish and Wildlife has identified the project sites as unique areas of undisturbed land within the highly developed agricultural landscape. Several special-status species are known to occur in this area, including: the blunt-nosed leopard lizard, the San Joaquin kit fox, the tricolored blackbird, the Fresno kangaroo rat, burrowing owl, American badger, western spadefoot, and coast horned lizard. With the Mitigation Measures identified in Section IV.A, which require habitat surveys, then species-specific surveys and specific avoidance measures, impacts will be less than significant.

* **Mitigation Measures**

See Section IV.A

- B. Does the project have impacts that are individually limited, but cumulatively considerable; or
- C. Does the project have environmental impacts which will cause substantial adverse effects on human beings, either directly or indirectly?

FINDING: LESS THAN SIGNIFICANT IMPACT:

In general, this project will reduce cumulative effects because the proposed increase to the herd size relates to the consolidation of two existing dairies onto this site. This will result in less driving, less wear on road, and more efficient herd management. Further, the proposed digester is expected to reduce the amount of methane released into the air.

CONCLUSION/SUMMARY

Based upon the Initial Study prepared for Conditional Use Permit Application No. 3580, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to Aesthetics, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, Recreation, and Transportation/Traffic.

Potential impacts related to Agriculture, Air Quality, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, and Utilities and Service Systems have been determined to be less than significant.

Potential impacts relating to Biological Resources, and Cultural Resources have determined to be less than significant with compliance with the noted Mitigation Measures.

A Mitigated Negative Declaration/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.

CMM
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ORIGINAL APPROVAL



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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March 14, 2018

Investment Office of Planning & Research

MAR 19 2018

STATE CLEARINGHOUSE

Ms. Chrissy Monfette
 Fresno County Department of Public Works and Planning
 Development Services and Capital Projects Division
 2220 Tulare St, Suite A
 Fresno, CA 93721

Subject: SCH No. 2018021070 – Proposed Mitigated Negative Declaration for Initial Study Application No. 7318 – Bar 20 Dairy – Fresno County

Dear Ms. Monfette:

Thank you for allowing the Department of Resources Recycling and Recovery (CalRecycle) staff to provide comments on the proposed project and for your agency's consideration of these comments as part of the California Environmental Quality Act (CEQA) process.

PROJECT DESCRIPTION

The County of Fresno Department of Public Works and Planning, acting as Lead Agency, has prepared and circulated a Notice of Completion (NOC) of a Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND) in order to comply with CEQA and to provide information to, and solicit consultation with, Responsible Agencies in the approval of the proposed project.

The Bar 20 Dairy (proposed project) is located at 24387 West Whitesbridge Avenue, within the existing AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) located on the south side of Whitesbridge Avenue, between San Mateo Avenue and James Road, in the City of Kerman (APN 015-100-21S). The project site is to be constructed on a 6.93-acre portion of an existing dairy facility, and the site is currently zoned for Exclusive Agriculture (EA). The site is located in an area of agricultural development with parcels to the north, south, and west restricted by a Williamson Act Contract.

The proposed project will allow an anaerobic digester for the collection of methane to be constructed on a 6.93-acre portion of an existing dairy facility; allow an increase to the herd size to a maximum of 10,839 milking cows and 20,616 non-milking animals due to a transfer of animals from the Bar 20 Dairy No. 3; and construct two new free-stall barns to house said animals on a 324.66-acre parcel.

COMMENTS

CalRecycle staff's comments on the proposed project are listed below. Where a specific location in the document is noted for the comment, please ensure the comment is addressed throughout all sections of the Draft IS/MND, in addition to the specific location noted.

Comments for the Draft IS/ND are summarized in the table below:

Chapter/Section	Page and Location	Comment
IS/MND		<i>The project description is not clear on what type of feedstock(s) will be processed or the tons per day or cubic yards of capacity for the anaerobic digester (AD).</i>



Chapter/Section	Page and Location	Comment
IX. Hydrology and Water Quality	Evaluation of Environmental Impacts p. 14	<p><i>What feedstock(s) will be used in the AD? What is the capacity of the AD in tons per day or cubic yards?</i></p> <p>"Wastewater from the project site will be processed through the digester and then applied to fields."</p> <p><i>Is the wastewater considered digestate per Title 14, California Code of Regulations (CCR), section 17896.2 (a)(6)?</i></p> <p><i>Digestate Handling guidelines must be followed pursuant to Title 14, CCR Section 17896.57.</i></p> <p><i>If the digestate is applied to land, application rates must follow the Land Application guidelines pursuant to Title 14, CCR section 17852(a) 24.5.</i></p>
XVII. Utilities and Service Systems	Evaluation of Environmental Impacts p.16	<p>"Wastewater is currently piped to either a recovery tank or a storage lagoon. When the digester is installed, the wastewater drain line will be rerouted so that all wastewater travels through the anaerobic digester prior to entering the existing retention ponds. Following processing in the digester, remaining water will be applied to dairy-owned fields as irrigation."</p> <p><i>Will the remaining water be returned to that same agricultural site, or an agricultural site owned or leased by the owner, parent, or subsidiary of the agricultural site on which the in-vessel digester is located?</i></p> <p>"The project will be required to obtain a permit to operate a Solid Waste Facility from the County of Fresno".</p> <p><i>The applicant should consult with County of Fresno Department of Health, Environmental Health Division, Local Enforcement Agency (LEA) to determine where the proposed project fits within the In-Vessel Digestion Operations and Facilities Placement in the Regulatory Tiers (Title 14, CCR, Section 17896.5.</i></p>
Fresno County Zoning Ordinance Technical Report for Bar 20 Dairy	Introduction p.1	<p>The introduction indicates that, "the proposed project is to generate electricity using the bio-gas created by the animals while reducing methane emissions".</p> <p><i>Please provide a clear description of the proposed project included but not limited to the feedstock(s), loading and unloading of materials into the AD, maximum cubic yards or tons per day of material allowed for throughput, and any pathogen testing on digestate to be performed.</i></p>

ORIGINAL
APPROVAL

Chapter/Section	Page and Location	Comment
Fresno County Zoning Ordinance Technical Report for Bar 20 Dairy	Introduction p.1	It is noted that, "solid waste will be exported off site". <i>What types of solid waste produced at Bar 20 Dairy are not suitable for digestion?</i>

Solid Waste Regulatory Oversight

The County of Fresno Environmental Health Division is the Local Enforcement Agency (LEA) and responsible for providing regulatory oversight of solid waste handling activities, including inspections. Please contact the LEA at (559) 600-3271 to discuss the regulatory requirements for the proposed project.

CONCLUSION

CalRecycle staff thanks the Lead Agency for the opportunity to review and comment on the environmental document and hopes that this comment letter will be useful to the Lead Agency preparing the MND and in carrying out their responsibilities in the CEQA process.

CalRecycle staff requests copies of any subsequent environmental documents, copies of public notices and any Notices of Determination for this proposed project.

If the environmental document is adopted during a public hearing, CalRecycle staff requests 10 days advance notice of this hearing. If the document is adopted without a public hearing, CalRecycle staff requests 10 days advance notification of the date of the adoption and proposed project approval by the decision making body.

If you have any questions regarding these comments, please contact me at 916.341.6066 or by e-mail at Alyssa.Gagnon@calrecycle.ca.gov.

Sincerely,



Alyssa Gagnon, Environmental Scientist
Permitting & Assistance Branch – North Central Unit
Waste Permitting, Compliance & Mitigation Division
CalRecycle

cc: Patrick Snider, Supervisor
Permitting & Assistance Branch – North Central Unit

cc: Sukhdeep (Deep) Sidhu, LEA
County of Fresno Environmental Health Division



April 20, 2020

Chrissy Monfette, Planner
County of Fresno, Department of Public Works and Planning
2220 Tulare Street, Suite A
Fresno, CA 93721

**RE: Conditional Use Permit 3580 – Extension Request
Dairy Facility Modifications
Bar-20 Dairy LLC / California Bioenergy, LLC
APN 015-100-21S**

Ms. Monfette,

It has come to our attention that the above referenced Conditional Use Permit (CUP) is approaching expiration. Due to circumstances beyond the Applicant's control, including delays related to funding and technological development, construction has been delayed and the Applicant would like to request a one-year extension of time for the CUP referenced above. As design details are currently under final review and grant funding has been awarded, we anticipate construction activities to begin prior to May 1, 2021.

Please feel free to contact me at 559-448-6928, or via email at kylep@4-creeks.com with any questions, comments, or concerns regarding this request. Thank you in advance for your careful consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Kyle Parreira', with a stylized flourish at the end.

Kyle Parreira, PE
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