



# COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362  
Catherine Venturella, Clerk of the Board of Supervisors

## AGENDA ITEM August 31, 2021

**SUBMITTED BY:** County Counsel – Carrie Woolley/Diane Walker Freeman  
Community Development Agency – Chuck Kinney

**SUBJECT:** PUBLIC HEARING: APPEAL OF CONDITIONAL USE PERMIT 19-01  
AMENDMENT BY SOUTHERN REALTY CO.

### **SUMMARY:**

#### **Overview:**

Roger McNitt, President of Southern Realty Co. appealed the June 7, 2021 decision of the Planning Commission to approve Conditional Use Permit (CUP) No. 19-01 Amendment on the basis that the project risks immediate financial failure because no one will buy the electricity produced by the project if they use polysilicon made by forced (aka slave) labor in the Xinjiang Province in China, and the Commission erred and abused its discretion by not insisting on mitigation by use of the Traceability Protocol, Buyer Disclosure Guides, and Environmental Commitments of the Solar Energy Industries Association (SEIA) or some other type of mitigation.

#### **Recommendation:**

**Conduct a public hearing to affirm the decision of the Planning Commission approving the Conditional Use Permit No. 19-01 Amendment.**

#### **Fiscal Impact:**

No fiscal impact.

### **BACKGROUND:**

On June 7, 2021, the Kings County Planning Commission (“Planning Commission”) conducted a public hearing and adopted Planning Commission Resolution No. 21-03, which approved CUP No. 19-01 Amendment to increase the number of battery storage units from 44 to 150, change the planned location of the project

(Cont’d)

**BOARD ACTION:**

APPROVED AS RECOMMENDED: \_\_\_\_\_ OTHER: \_\_\_\_\_

I hereby certify that the above order was passed and adopted  
on \_\_\_\_\_, 2021.

CATHERINE VENTURELLA, Clerk to the Board

By \_\_\_\_\_, Deputy.

## **Agenda Item**

### **APPEAL OF CONDITIONAL USE PERMIT 19-01 AMENDMENT BY SOUTHERN REALTY CO.**

**August 31, 2021**

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operations center, include a microwave communications tower and include 7.2 miles of the gen-tie line (previously approved by the Kings County Planning Commission as part of the Aquamarine Solar Project (CUP 17-04)) extending from the substation on the Chestnut Solar Project site to the Fresno County line in the west, to be located at 24998 Nevada Avenue (“Property”).

Roger McNitt, President of Southern Realty Co. appeared at the June 7, 2021 public hearing and spoke in opposition to CUP No 19-01 Amendment. Thereafter, on June 15, 2021, Mr. McNitt filed an appeal of the decision of the Planning Commission to the Board of Supervisors on behalf of the Southern Realty Co. (“Appellant”) in accordance with Kings County Development Code (“Development Code”) Section 1711 (Attachment 10). Appellant argues that the Planning Commission erred and abused its discretion by not insisting on mitigation by use of the Traceability Protocol, Buyer Disclosure Guides, and Environmental Commitments of the SEIA or some other type of mitigation to ensure that polysilicon made by forced (aka slave) labor in the Xinjiang Province in China not be used on this project. Appellants specifically allege the following errors:

1. “The Kings County Planning Commission (“Commission”) failed to take into consideration that all three projects risk immediate financial failure because no one will buy the electricity produced by the projects if they use polysilicon made by forced (aka slave) labor in the Xinjiang Province in China”;
2. “[A]t a minimum, the Commission should have briefly continued the hearing to investigate the very recent discovery of the use of forced labor on solar projects”;
3. “Appellant also asked for a brief continuance for lack of timely notice as notice of the Monday, June 7, 2021 hearing was only emailed to Appellant on Thursday the June 3, 2021”; and
4. “The Commission...fail[ed] to grant a thirty day continuance requested by Appellant to allow SEIA, Applicant, and cotton growers in Kings County to work out appropriate mitigation”.

Pursuant to Section 1711, the appeal of a Planning Commission decision is limited to the issues and evidence submitted to the Commission during the original public comment period and public hearing. New issues raised, and evidence submitted, after the close of the Commission’s public hearing, shall not be considered by the Board on appeal. The Board’s review is limited to the evidence in the record.

Accordingly, the following documents constitute the record and are attached for your Board’s review: Notice of Public Hearing with Affidavit of Mailing (Attachment 2); Notice of Public Hearing with Proof of Publication (Attachment 3); Planning Commission June 7, 2021 Agenda (Attachment 4); CUP No. 19-01 Amendment Staff Report (Attachment 5); Staff PowerPoint Presentation (Attachment 6); Documents Submitted at Hearing as Exhibit A (Attachment 7); Executed Planning Commission Resolution 21-03 (Attachment 8); and Transcript of Hearing (Attachment 9).

Upon review, the record supports a conclusion that Appellant’s request to mitigate the procurement of materials is not appropriate under the California Environmental Quality Act (CEQA) and that it would be an issue outside of the Planning Commission and Kings County’s jurisdiction to review. In addition, the Planning Commission complied with all relevant laws governing the Commission’s obligations for notice and conduct of the public hearing including Development Code Article 17 (Attachment 10); Development Code Article 19 (Attachment



## **Agenda Item**

### **APPEAL OF CONDITIONAL USE PERMIT 19-01 AMENDMENT BY SOUTHERN REALTY CO.**

**August 31, 2021**

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11); Government Code Section 65090 et seq. (Attachment 12); and Government Code Section 54954.2 (Attachment 13). Accordingly, Staff recommends that the Board affirm the Planning Commission's decision to approve CUP No. 19-01 Amendment. If the Board concludes otherwise, the appropriate remedy is to remand the matter back to the Planning Commission for further process.

#### **ATTACHMENTS:**

1. Appeal of CUP 19-01 Amendment.
2. Notice of Public Hearing with Affidavit of Mailing.
3. Notice of Public Hearing with Proof of Publication.
4. Planning Commission June 7, 2021 Agenda.
5. CUP No. 19-01 Amendment Staff Report.
6. Staff PowerPoint Presentation.
7. Documents Submitted at Hearing as Exhibit A.
8. Executed Planning Commission Resolution 21-03.
9. Transcript of Hearing.
10. Development Code Article 17.
11. Development Code Article 19.
12. Government Code Section 65090 et seq.
13. Government Code Section 54954.2.

# Attachment 1

# Receipt of Fees County of Kings

Building Permit:

32157

Planning Permit:

Receipt Number: 2026644

Received From: GOTFREDSON LAW FIRM

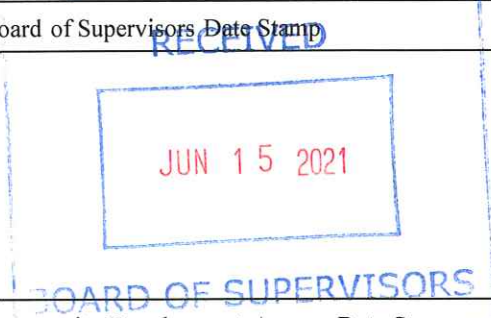

Received By: AM

Notes: APPEAL FOR CUP NO. 19-01

<u>DESCRIPTION</u>	<u>FUND</u>	<u>DEPT</u>	<u>ACCT #</u>	<u>AMOUNT PAID</u>	<u>PAID DATE</u>
APPEALS		279000	87099	1,000.00	6/15/2021 1
				1,000.00	
				<u>1,000.00</u>	

<u>Receipt #</u>	<u>Payment Date</u>	<u>Payment Type</u>	<u>Check</u>	<u>Payment Amount</u>
2026644	6/15/2021	CK	3017	1,000.00



<b>APPEAL OF A DECISION OF THE KINGS COUNTY PLANNING COMMISSION TO THE KINGS COUNTY BOARD OF SUPERVISORS</b>	<b>DATE FILED:</b> Requires Board of Supervisors Date Stamp 
<small>h:\planning\zoni11g admin\fonm\pc appeal fonn 2010.doc (Revised Oct 2010)</small>	<b>DATE FILED:</b> Requires Community Development Agency Date Stamp 

The undersigned hereby appeals the decision of the Planning Commission on **JUNE 7, 2021**

A specific statement of error or abuse of discretion by the Planning Commission or where its decision is not supported by the evidence in the record is as follows:

**RE: Conditional Use Permit No. 19-01 Amendment (Westlands Chestnut Solar)**

See attached "Attachment to Appeal of a Decision of the Kings County Planning Commission," which is incorporated by this reference.

(NOTE: File with the Kings County Community Development Agency within 8 days following the decision.)

**DATE SUBMITTED: JUNE 14, 2021**

**SOUTHERN REALTY CO.**

**APPELLANT:** \_\_\_\_\_

BY: ROGER MCNITT, PRESIDENT (Signature)

Print Name: SOUTHERN REALTY CO. \_\_\_\_\_

Mailing Address: 2124 Via Don Benito \_\_\_\_\_

City: La Jolla \_\_\_\_\_ State: CA Zip: 92037

Phone No.: (619) 813-2833 ; FAX No.: \_\_\_\_\_

**Subscribed and certified by.**

Received by: \_\_\_\_\_

Community Development Agency Representative

Receipt Number: 2026644 \_\_\_\_\_

ATTACHMENT TO APPEAL OF DECISION OF THE KINGS COUNTY PLANNING COMMISSION

By SOUTHERN REALTY CO.

The Kings County Planning Commission ("Commission") failed to take into consideration that all three projects risk immediate financial failure because no one will buy the electricity produced by the projects if they use polysilicon made by forced (aka slave) labor in the Xinjiang Province in China. The Applicants have declined Appellant's request that they mitigate this massive risk by complying with the Supply Chain Traceability Protocol ("Traceability Protocol") of the Solar Energy Industries Association (SEIA), the large solar project trade association. Over 175 solar related entities have already agreed to the Traceability Protocol. Applicant has not stated that its polysilicon will not come from forced labor factories.

Specifically, the Commission erred and abused its discretion by not insisting on mitigation (AG2 and AG3) by use of the Traceability Protocol, Buyer Disclosure Guides, and Environmental Commitments of the SEIA or some other type of mitigation. At a minimum, the Commission should have briefly continued the hearing to investigate the very recent discovery of the use of forced labor on solar projects. Appellant also asked for a brief continuance for lack of timely notice as notice of the Monday, June 7, 2021 hearing was only emailed to Appellant on Thursday, June 3, 2021.

Appellant believes that unless mitigated now, the financial effects on solar projects which include forced labor polysilicon are massive. There is bi-partisan support in Washington and the G-7 to take action on this issue now. Moreover, even if the federal, state, or local governments do not prohibit any project with polysilicon from Xinjiang, Appellant believes that the likely consumer purchasers of electricity from Community Choice Aggregation entities are also strong believers in human rights and will not sign up for or will opt out of the Community Choice Aggregation entities which are the logical wholesale purchasers of solar energy. In other words, no one will buy the electricity.

The Commission also erred and abused its discretion by failing to grant a thirty day continuance requested by Appellant to allow SEIA, Applicant, and cotton growers in Kings County to work out appropriate mitigation. Those cotton growers have first-hand knowledge of the effects caused by the Xinjiang/Uyghur forced labor issue. Earlier this year the federal government announced a ban on imports of cotton from Xinjiang because of human rights violations and forced labor issues. Kings County cotton growers can advise on the status of that ban, including supply train tracing, as well as attempts, if any, by Chinese exporters to evade the ban. Such mitigation might have been in the form of using the Traceability Protocol on future panels, including replacements on existing panels, but not on panels on which Applicant already had made a firm commitment.

Appellant owns land and mineral rights in Kings County, including, Appellant believes, mineral rights comprising more than 25% of the Grape and Blue projects and a lesser percentage on the Chestnut project. Appellant strongly believes in clean solar energy and has four existing agreements on solar projects in Kings County, including one which is currently providing electricity to the City of Palo Alto.

While Appellant did not have adequate time to fully present this issue, attached are copies of documents Appellant's submitted at the hearings.



**From:** Roger McNitt rmcnitt@bkflaw.com  
**Subject:** Fwd: Westlands Grape, Blue, and Chestnut projects CUP hearings in Kings County California on Monday at 12:45 SEIA Solar Supply Chain Traceability Protocol  
**Date:** June 7, 2021 at 6:48 AM  
**To:** chuck.kinney@co.kings.ca.us



FYI. I still haven't heard back from Westlands our request that it sign on to the industry protocols on forced labor. Both the Solar Energy Industries Association and Southern Realty agree that projects should not include polysilicon produced by forced labor in the Chinese province that also produced cheap cotton using forced labor which greatly harmed Kings County cotton growers. That Chinese cotton cannot now be imported. Roger McNitt

Sent from my iPhone

Begin forwarded message:

**From:** Roger McNitt <rmcnitt@bkflaw.com>  
**Date:** June 5, 2021 at 6:13:53 PM EDT  
**To:** kim@stoneadvocacy.com  
**Cc:** itglaw@aol.com  
**Subject:** Westlands Grape, Blue, and Chestnut projects CUP hearings in Kings County California on Monday at 12:45 SEIA Solar Supply Chain Traceability Protocol

Kim,

Confirming our conversation I was advised Thursday by a late notice of the hearing. I am the President of Southern Realty Co, which owns land and several thousand acres of mineral rights in Kings County. We are big believers in solar energy and already have entered into four surface rights agreements in Kings County. One project has been providing electricity to Palo Alto for years. Our major concern for years in all our long term agreements has been clean up at the end and insurance to guaranty rebuilding in the event of a property loss. This is because all these projects are in the name of a stand alone, single purpose, walk away from if anything goes wrong entity. Although we ask, the large solar developers have declined to accept future responsibility.

We have an existing agreement with Westlands on its Aquamarine project. Westlands has advised us that we have acreage on its projects coming up for hearing, but has not yet contacted us regarding agreements for those.

We are greatly concerned about an issue that has just come up—forced labor in Xinjiang regarding polysilicon. We believe this issue, if not resolved, at a minimum will greatly increase risks to our potential ability to use our property. At a minimum the costs of restoration will greatly increase. There is also a risk that contaminated panels will have to be torn out and replaced. Recall that this is what happened in Detroit when it was discovered that rails on its new rapid transit project came from apartheid South Africa. A worse result would be that a project would become a white elephant due to actions of governments or consumers. We believe that consumers who would likely buy from Community Aggregation groups are also strong defenders of human rights and would not buy tainted electricity.

We have asked Westlands to agree to the SEIA Supply Chain Traceability Protocol as well as its environmental commitments and buyers guide. Westlands has not yet responded to our request. If it does not so agree, we will raise the forced labor issue at the public hearing and ask that SEIA positions be required. We reserve the right to bring legal action if the forced labor issue cannot be resolved.

Please forward this to your SEIA contact. I can be reached at 619-813-2833. Roger

Sent from my iPhone

**From:** Roger McNitt rmcnitt@bkflaw.com  
**Subject:** Solar industry launches supply chain transparency tool amid pressure to ensure ethical component sourcing | Utility Dive  
**Date:** June 4, 2021 at 1:47 PM  
**To:** chuck.kinney@co.kings.ca.us



Per our conversation today  
<https://www.utilitydive.com/news/solar-industry-launches-supply-chain-transparency-tool-amid-pressure-to-ens/599439/>

Sent from my iPhone

**BRIEF**

# **Solar industry launches supply chain transparency tool amid pressure to ensure ethical component sourcing**

By Jean Haggerty

## **Dive Brief:**

- The Solar Energy Industries Association (SEIA) launched Thursday a new traceability tool aimed at helping manufacturers and importers of solar products identify the source of a solar product's material inputs and trace the movement of these inputs throughout the supply chain.
- This new tool, the Solar Supply Chain Traceability Protocol, is in response to reports of human rights abuses in Xinjiang, China, and the hope is that companies that implement the protocol's key principles will be better placed to navigate U.S. import compliance obligations as well as provide customers with greater supply chain transparency, SEIA said. The new protocol includes an independent third-party audit mechanism to measure a company's implementation of traceability policies and procedures.
- In conjunction with the release of the protocol, SEIA also released a Solar Equipment Buyers' Guide for Supply Chain Traceability and it updated its Solar Industry Commitment to Environmental and Social Responsibility participant handbook.

## **Dive Insight:**



SEIA has released early-stage guidance aimed at helping manufacturers and importers of solar products demonstrate the provenance of solar products and implement a traceability program so that they can ensure their solar products are ethically produced.

Much of the world's polysilicon comes from Xinjiang, a region where the Chinese government has been accused of human rights abuses against the area's Uyghur Muslim population.

The best way to overcome these supply chain issues would be an alternative supply chain outside China, said Johannes Bernreuter, a polysilicon market analyst and head of Bernreuter Research. "But this is very hard to establish as the Chinese solar industry has developed a huge advantage with its economies of scale," he added. In the short term, the only option is tracing and rearranging the supply chain, he said.

For the solar industry, concerns that solar products produced in Xinjiang could have links to forced labor and the fact that solar energy deployment is essential for achieving a carbon neutral future explain why providing assurance that solar products are free from forced labor is so important, officials said.

✓ "Customers want assurances that the [solar] products that they are purchasing don't include forced labor or that their manufacturers are taking steps to prevent forced labor. And transparency is a key element of that," John Smirnow, SEIA's vice president of market strategy said during a webinar introducing the supply chain protocol that SEIA developed with Clean Energy Associates and Senergy Technical Services.

The new traceability protocol is also intended to help importers meet their U.S. customs law reasonable care obligations and improve an importer's ability to respond to U.S. Customs and Border Protection requests for information and audit inquiries,

according to SEIA.

Additionally, in the U.S., the Uighur Forced Labor Prevention Act, which requires an importer to establish by clear and convincing evidence that any good that includes materials from Xinjiang contains no forced labor in its supply chain, is circulating in Congress. If this bill becomes law, a company might not be able to import products into the U.S., Smirnow said.

"And that's just a risk profile that is unacceptable from an industry perspective," he added. "Clear and convincing evidence" is a very high standard, and it requires an independent third-party audit, he said. To measure a company's implementation of traceability policies and procedures, the new traceability protocol includes an independent third-party audit mechanism.

"Certainly, we are hearing about potential enforcement action on polysilicon from Xinjiang," Smirnow said. SEIA does not have specifics on that, but the U.S. government has already taken significant action against imports of tomato products from the region, he pointed out.

Even in the absence of new laws, supply chain transparency can be a key competitive differentiator for solar companies, which often pride themselves as being at the forefront of the sustainability movement. In its transparency protocol, SEIA noted that transparency in a solar company's supply chain could increase an organization's rating by independent agencies and attract investment.

According to SEIA, most companies across the solar modular supply chain already have advanced systems in place to track materials through the various manufacturing processes. This protocol envisions organizations' integrating product traceability to upstream suppliers into the applicable management system in such a way that will allow customers to determine the provenance

of material inputs from a specific module all the way back to the plant that produced the raw materials.

Weaving product traceability into the entirety of the solar module supply chain will require organizations at each level to cooperate and share sensitive information, SEIA said.

In addition to launching the solar supply chain traceability protocol, SEIA has updated its solar commitment handbook, which defines common labor, health and safety, environmental, and ethical standards and expectations for solar companies, and it has created a solar buyers' guide on traceability that solar companies and other stakeholders can use to ask suppliers about ethical sourcing in their solar and storage value chain.

Demand for polysilicon from non-Xinjiang suppliers has been growing, and new capacities have been announced for Chinese regions outside Xinjiang, but according to Bernreuter, China's share of the world's polysilicon capacity, including electronic grade for semiconductors, will increase to more than 80% this year.



**From:** Roger McNitt rmcnitt@bkflaw.com  
**Subject:** Fwd: U.S. solar industry unveils guidelines to free supply chain of forced labor | Reuters  
**Date:** June 4, 2021 at 1:48 PM  
**To:** chuck.kinney@co.kings.ca.us



Per our conversation today

Sent from my iPhone

Begin forwarded message:

**From:** Roger McNitt <rmcnitt@bkflaw.com>  
**Date:** June 3, 2021 at 10:39:04 PM EDT  
**To:** Pamela Prickett <PPrickett@fspwlaw.com>  
**Subject:** U.S. solar industry unveils guidelines to free supply chain of forced labor | Reuters

<https://www.reuters.com/business/sustainable-business/us-solar-industry-unveils-guidelines-free-supply-chain-forced-labor-2021-04-29/>

Sent from my iPhone

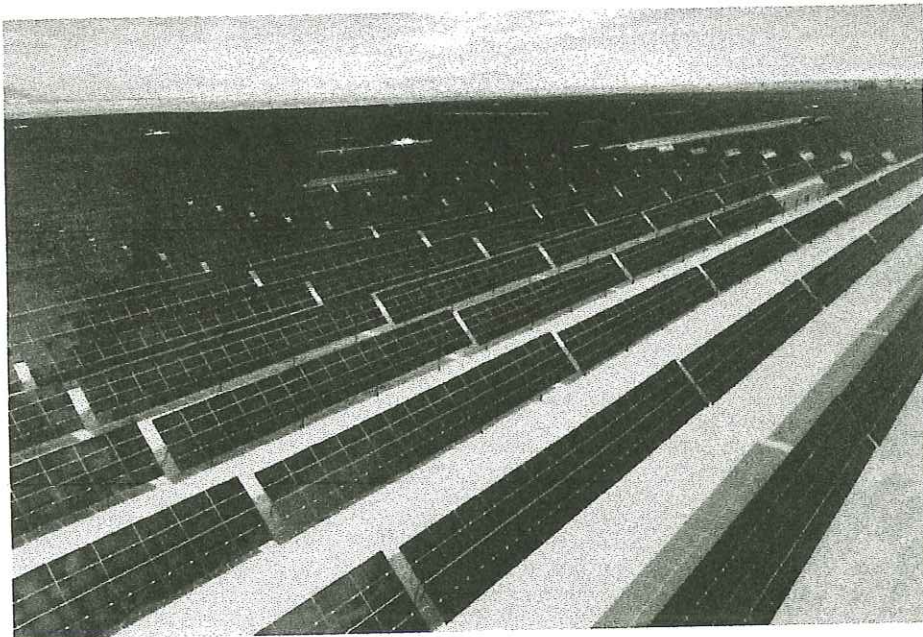
April 28, 2021 9:00 PM PDT

Government

# U.S. solar industry unveils guidelines to free supply chain of forced labor

3 minute read

Nichola Groom



Arrays of photovoltaic solar panels are seen at the Tenaska Imperial Solar Energy

The top U.S. solar industry trade group on Thursday issued a set of voluntary guidelines to solar panel manufacturers that it said could help rid products installed in the United States of components built abroad with forced labor.

Some U.S. lawmakers have urged penalties

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Center South in this aerial photo taken over El Centro, California, U.S., May

29, 2020. Picture taken with a drone. REUTERS/Bing Guan

Some U.S. lawmakers have voiced growing concern that the industry is dependent upon products, specifically the raw material polysilicon, linked to work camps in China's Xinjiang region. The U.S. State Department has made a determination that Chinese

officials are perpetrating genocide there, and imports of cotton and tomato products from the region were banned this year.

China, the world's largest maker of solar products, denies all accusations of abuse.

In an effort to address the concerns, the U.S. Solar Energy Industries Association unveiled a 40-page **document** that outlines measures companies should take to identify the sources of a product's input materials and trace their movements through the supply chain.



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"We do not want any indication of forced labor in the solar supply chain," John Smirnow, vice president of market strategy for SEIA, said in an interview. "There were serious concerns raised and we are responding in a serious way."

The protocol, which does not mention China specifically, recommends that rigorous descriptions and documentation be included with products as they proceed through factories and are shipped to the United States.

For instance, for an ingot of silicon that is shaped into logs and then sliced into wafers, those individual wafers should be identified as having come from a particular log or batch. That way the wafer purchaser could trace the products back to a specific ingot, according to the document.

The protocol also recommends that companies have their implementation of the procedures audited by a third party.

SEIA late last year began urging its members to exit the Xinjiang region and has asked its member companies to be able to provide assurances by June that their products are free of forced labor.

U.N. experts and rights groups estimate over a million people, mainly Uyghurs and other Muslim minorities, have been detained in a vast system of camps in Xinjiang in recent years.

Our Standards: [The Thomson Reuters Trust Principles.](#)

**More from Reuters**

**From:** Roger McNitt rmcnitt@bkflaw.com  
**Subject:** Fwd: Solar Companies Unite to Prevent Forced Labor in the Solar Supply Chain | SEIA  
**Date:** June 4, 2021 at 1:49 PM  
**To:** chuck.kinney@co.kings.ca.us

Per our conversation today

Sent from my iPhone

Begin forwarded message:

**From:** Roger McNitt <rmcnitt@bkflaw.com>  
**Date:** June 3, 2021 at 10:36:24 PM EDT  
**To:** Pamela Prickett <PPrickett@fspwlaw.com>  
**Subject:** Solar Companies Unite to Prevent Forced Labor in the Solar Supply Chain | SEIA

Per our call  
<https://www.seia.org/news/solar-companies-unite-prevent-forced-labor-solar-supply-chain>

Sent from my iPhone





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# Solar Companies Unite to Prevent Forced Labor in the Solar Supply Chain

Thursday, Feb 04 2021

## [Press Release](#)

WASHINGTON, D.C. — Today 175 solar companies, including some of the top solar manufacturers in the world, are announcing that they have [signed a pledge opposing forced labor](#) in the solar supply chain. By signing the pledge, companies are stating their commitment to help prevent these abhorrent practices and ensure that the products they are using do not have links to forced labor in the Xinjiang region of China, or anywhere else in the world.

This pledge is part of an [industry-wide effort](#) led by the Solar Energy Industries Association (SEIA) that supports the development of a supply chain traceability protocol and a comprehensive update to SEIA's Solar Commitment, which defines common practices and expectations for the solar industry.

“We’re proud to stand with these companies to vehemently oppose the use of forced labor in the solar supply chain,” **said John Smirnow, vice president of market strategy for the Solar Energy**

**Industries Association (SEIA).** “Forced labor will not be tolerated in our industry. Given reports of labor abuses in Xinjiang and the inability to conduct independent audits there, solar companies should immediately move their supply chains out of the region. We’ve been calling on this for several months now and expect that most of the major suppliers should be out by June 2021, at the latest. We will continue to work with lawmakers, customs officials, the Biden administration, and our international partners to make sure solar imports are proven to be free of forced labor.”

The pledge [remains open for signatures](#), and all companies and organizations operating in the solar industry can join SEIA’s effort. SEIA will continue to expand its coalition and build on this important work over the next several months.

### **Several companies spoke out about their participation in SEIA’s effort:**

"The solar industry is positioned for rapid growth in the coming years, and it's vital to us at Swinerton Renewable Energy that we do it in a way that is consistent with our values as an employee-owned company," **said George Hershman, President of Swinerton Renewable Energy and SEIA Board Chair.** "We believe we have a responsibility to positively serve our communities through the work we do, and the exploitation of workers stands in direct violation of this belief. We condemn the use of forced labor in the Xinjiang region and anywhere else in the world."

“Solar has the potential for enormous positive impact on the world, but that mission is void if products are made on the back of unethical labor practices,” **said Suzanne Leta, Head of Policy and**



**Strategy at SunPower.** “SunPower is committed to making human rights a central issue throughout our supply chain and implore others to do the same. Signing the Forced Labor Prevention Pledge was a meaningful first step; now we must be vigilant about continuing to lead our industry to do the right thing.”

“Integrity, respect and safety are foundational to our core values as a global infrastructure solutions provider,” **said Mario Azar, president of Black & Veatch’s Global Power Business.** “As a leader in the solar industry, Black & Veatch is committed to supply chains that are free of forced labor and remain committed to ensuring our supply chain adheres to these principles.”

“ENGIE rejects all forms of forced, compulsory or child labor and such abhorrent practices have no place in the supply chain,” **said Laura Beane, Chief Renewables Officer for ENGIE North America.** “We prequalify all suppliers, including performing detailed due diligence on key suppliers to validate they satisfy our code of conduct. Our commitment to human rights is not only publicly documented in our Ethics Charter, Supplier Relations Code of Conduct and Human Rights Referential, but now also as a proud signatory of SEIA's pledge.”

“We are at a critical inflection point in the development and implementation of new clean energy sources for our nation, an exciting time that reflects expanded access for all people and new opportunities to slow the effects of climate change,” **said Zaid Ashai, CEO of Nexamp.** “However, this progress cannot come at the expense of global human rights. For this reason, at Nexamp we are fully committed to doing everything we can to identify and evaluate

the origins of the materials we use, with particular attention to avoiding materials that can be tied to the Xinjiang region of China, where issues of forced labor have been identified.”

###

### **About SEIA®:**

The Solar Energy Industries Association® (SEIA) is leading the transformation to a clean energy economy, creating the framework for solar to achieve 20% of U.S. electricity generation by 2030. SEIA works with its 1,000 member companies and other strategic partners to fight for policies that create jobs in every community and shape fair market rules that promote competition and the growth of reliable, low-cost solar power. Founded in 1974, SEIA is a national trade association building a comprehensive vision for the Solar+ Decade through research, education and advocacy. Visit SEIA online at [www.seia.org](http://www.seia.org) and follow @SEIA on [Twitter](#), [LinkedIn](#) and [Instagram](#).

### **Media Contact:**

Morgan Lyons, SEIA's Senior Communications Manager,  
[mlyons@seia.org](mailto:mlyons@seia.org) (202) 556-2872

### **Tags**

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**New Report Names Target the Top Corporate Solar**

# in the Solar Supply Chain

The solar supply chain is expected to grow significantly over the next decade, driven by increasing demand for renewable energy. Key components include solar panels, inverters, and mounting systems. The market is projected to reach a value of \$100 billion by 2030, with a compound annual growth rate (CAGR) of 15%.

# 8300 Megawatts Grow 20- Fold Over Last Decade

The solar industry has experienced a 20-fold increase in capacity over the last decade, reaching 8300 megawatts. This growth is attributed to government incentives, falling costs of solar technology, and increasing awareness of environmental benefits. The industry is expected to continue its rapid expansion, with projections for 2030 showing a total capacity of over 100,000 megawatts.

# Installer in the U.S.

The solar installer market in the U.S. is projected to grow from \$10 billion in 2015 to \$50 billion by 2030. This growth is driven by the increasing number of residential and commercial solar installations. Key factors include the expansion of net metering programs and the entry of new players into the market. The industry is expected to create over 100,000 jobs by 2030.



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**From:** Roger McNitt rmcnitt@bkflaw.com  
**Subject:** In Broad Daylight Uyghur Forced Labour In the Solar Supply Chain | Sheffield Hallam University  
**Date:** June 5, 2021 at 4:15 PM  
**To:** chuck.kinney@co.kings.ca.us  
**Cc:** tlglaw@aol.com

<https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight>

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# In Broad Daylight: Uyghur Forced Labour and Global Solar Supply Chains



## In Broad Daylight

In Broad Daylight reveals how forced labour in the Uyghur region has ripple effects throughout international solar supply chains.

Read the report

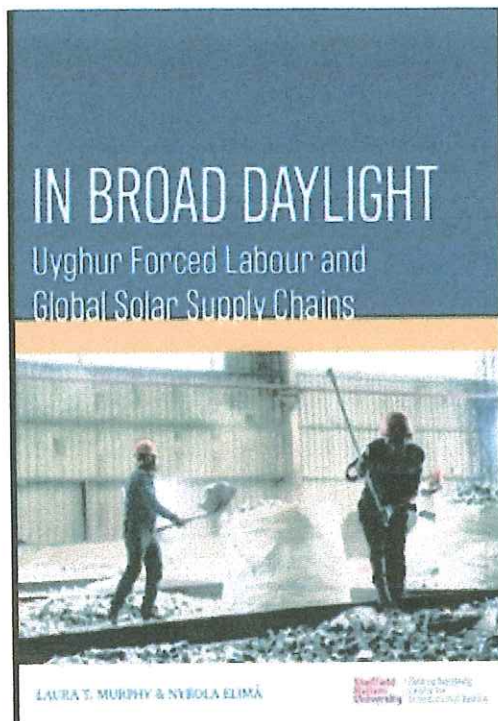


<https://documentcloud.adobe.com/link?url=urn:aaid:scds:US:d360ffab-40cc-48b8b-a8bd503286a3>

Download the report (PDF, 2.8MB)



</media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/in-broad-daylight.pdf>



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[uri=urn:aaid:scds:US:d360ffab-40cc-4d83-8b8b-a8bd503286a3](https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:d360ffab-40cc-4d83-8b8b-a8bd503286a3)

The People's Republic of China (PRC) has placed millions of indigenous Uyghur and Kazakh citizens from the Xinjiang Uyghur Autonomous Region (XUAR or Uyghur Region) into what the government calls “surplus labour” (富余劳动力) and “labour transfer” (劳动力转移) programmes. An official PRC government report published in November 2020 documents the “placement” of 2.6 million minoritised citizens in jobs in farms and factories within the Uyghur Region and across the country through these state-sponsored “surplus labour” and “labour transfer” initiatives. The government claims that these programmes are in accordance with PRC law and that workers are engaged voluntarily, in a concerted government-supported effort to alleviate poverty. However, significant evidence – largely drawn from government and corporate sources – reveals that labour transfers are deployed in the Uyghur Region within an



environment of unprecedented coercion, undergirded by the constant threat of re-education and internment. Many indigenous workers are unable to refuse or walk away from these jobs, and thus the programmes are tantamount to forcible transfer of populations and enslavement.

It is critical that we examine the particular goods that are being produced as a result of this forced labour regime. This paper focuses on just one of those industries – the solar energy industry – and reveals the ways forced labour in the Uyghur Region can pervade an entire supply chain and reach deep into international markets. We concluded that the solar industry is particularly vulnerable to forced labour in the Uyghur Region because:

- 95% of solar modules rely on one primary material – solar-grade polysilicon.
- Polysilicon manufacturers in the Uyghur Region account for approximately 45% of the world's solar-grade polysilicon supply.
- All polysilicon manufacturers in the Uyghur Region have reported their participation in labour transfer programmes and/or are supplied by raw materials companies that have.
- In 2020, China produced an additional 30% of the world's polysilicon on top of that produced in the Uyghur Region, a significant proportion of which may be affected by forced labour in the Uyghur Region as well.

**In the course of this research, we identified:**


- 11 companies engaged in labour transfers

- 4 additional companies located within industrial parks that have accepted labour transfers
- 90 Chinese and international companies whose supply chains are affected

This report seeks to increase the knowledge base upon which the solar industry determines its exposures to forced labour in the Uyghur Region. We investigated the entire solar module supply chain from quartz to panel to better understand the extent to which forced labour in the Uyghur region affects international value chains. The examples of engagement in these programs are meant to provide stakeholders with the evidence base upon which to judge risk of exposure to forced labour in the solar supply chain.

## **Evidence base**

The evidence of forced labour in the Uyghur Region is expansive and growing. The Forced Labour Lab is committed to making evidence and data regarding the oppression of minoritised citizens in the Uyghur region available to the public.

The evidence presented in the report is all publicly available. However, due to the frequency with which corporate reports, news, and social media pages are removed from the web, all websites referred to in the paper have been archived through the [Archive.Today](https://archive.today)  <https://archive.is/> website. Archived versions of pdfs are only screenshots of the website, so those materials are collected here. Materials presented below can be used to understand the

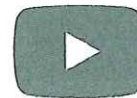
industry better and illustrate the investment of solar/polysilicon industry in Xinjiang.

Wo Ai Zhundong: Zhundong Industrial ...



Wo Ai Zhundong: Zhundong Industrial Park Promotional Video

CCTV report on TBEA's poverty alleviat...



CCTV report on TBEA's poverty alleviation efforts in Southern Xinjiang

## **Corporate Reports**

Corporate disclosures play an important role in understanding the supply chain. These are some of the reports we refer to in our report. (We have not included the cited US SEC filings here because they are easily accessible for free online.)



- [Asia Silicon 2020 Prospectus \(draft\) \(PDF, 5.5MB\) ►► /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/asia-silicon-2020-prospectus-draft.pdf](#)
- [Changji Jisheng 2018 Environmental Protection Acceptance Monitoring Report of Changji Jisheng New Building Materials Co., Ltd. with an Annual Output of 300,000 Tons of New Energy High-end Non-ferrous Metal Profiles \(PDF, 21.5MB\) ►► /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/changj1.pdf](#)
- [Changji Jisheng New Building Materials Co., Ltd The Environmental Impact Report of the New Silicon Material Project with an Annual Output of 450,000 Tons \(120,000 tons in the Second phase\) of Changji Jisheng New Building Materials Co., Ltd \(PDF, 2.2MB\) ►► /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/changj2.pdf](#)
- [Changji New Materials Co 2016 The Silicon Industry Branch investigated the industrial silicon enterprises in Yili, Xinjiang. \(PDF, 389.8KB\) ►► /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/changji-new-materials-co-2016-the-silicon-industry-branch-investigated-the-industrial-silicon-enterp.pdf](#)
- [Dadi Zelin 2019 Xinjiang Dadi Zelin Silicon Industry Co., Ltd. Environmental Protection Acceptance Opinion for the Completion of the 100,000-ton Metal Silicon Fume Production and Construction Project \(PDF, 1004.7KB\) ►► /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/dadi-](#)

[zelin-2019-xinjiang-dadi-zelin-silicon-industry-co-ltd-environmental-protection-acceptance-opin.pdf](#)

- [Daqo 2018 Prospectus Supplement \(PDF, 1.4MB\)](#) ➤ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/daqo-2018-prospectus-supplement.pdf](#)
- [Daqo 2020 Prospectus \(Declaration draft\) \(PDF, 5.1MB\)](#) ➤ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/daqo-2020-prospectus--declaration-draft.pdf](#)
- [Daqo 2021 Prospectus \(draft\) \(PDF, 7MB\)](#) ➤ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/daqo-2021-prospectus-draft.pdf](#)
- [East Hope 2020 Xinjiang East Hope New Energy Co., Ltd. 120,000 Tons of Polysilicon \(30,000 Tons in the first phase\) Project Completed Environmental Protection Acceptance Monitoring Report \(PDF, 23.5MB\)](#) ➤ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/east-hope-2020-xinjiang-east-hope-new-energy-co-ltd-120000-tons-of-polysilicon-30000-tons-in-the-fir.pdf](#)
- [GCL 2020 Party Group Work Briefing Report \(PDF, 2.4MB\)](#) ➤ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/gcl-2020-party-group-work-briefing-report.pdf](#)
- [GCL-Poly Energy 2021 GCL-Poly Energy Holdings Co., Ltd. \(1\) Very Material Disposal Sale of Subsidiaries \(2\) Potential Very Material Acquisition Grant of Put Options and Notice of Special General Meeting \(PDF, 2.8MB\)](#) ➤ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-](#)



[base/gclpoly-energy-2021-gclpoly-energy-holdings-co-ltd-1-very-material-disposal-sale-of-subsidiaries-2-p.pdf](#)

- [Hami Liurui 2018 Hami Liurui 13th Division Liushuquan Farm Phase I 20MW Photovoltaic Power Project Water and Soil Conservation Facilities Acceptance Report \(PDF, 7.2MB\) ▸ ▸ /- /media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/hami-liurui-2018-hami-liurui-13th-division-liushuquan-farm-phase-i-20mw-photovoltaic-power-project-w.pdf](#)
- [Hami Xuanli 2018 Acceptance Certificate of Water and Soil Conservation Facilities for Production and Construction Projects \(PDF, 1018.2KB\) ▸ ▸ /- /media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/hami-xuanli-2018-acceptance-certificate-of-water-and-soil-conservation-facilities-for-production-and.pdf](#)
- [Hoshine 2018 Annual Output of 100,000 Tons of Siloxane and Downstream Deep Processing Project of the Environmental Impact Report of Hoshine Silicon Industry \(Shanshan\) Co., Ltd \(PDF, 4.8MB\) ▸ ▸ /- /media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/hoshine-2018-annual-output-of-100000-tons-of-siloxane-and-downstream-deep-processing-project-of-the.pdf](#)
- [Hoshine 2019 Annual Audit Report \(PDF, 5.9MB\) ▸ ▸ /- /media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/hoshine-2019-annual-audit-report.pdf](#)
- [Hoshine 2019 Annual Report \(PDF, 3.5MB\) ▸ ▸ /- /media/home/research/helena-](#)

[kennedy-centre/projects/pdfs/evidence-base/hoshine-2019-annual-report.pdf](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/hoshine-2019-annual-report.pdf)

- [Hoshine 2020 Annual Report \(PDF, 5.9MB\)](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/hoshine-2020-annual-report.pdf) ➡ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/hoshine-2020-annual-report.pdf](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/hoshine-2020-annual-report.pdf)
- [JA solar 2019 annual report \(PDF, 2MB\)](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/ja-solar-2019-annual-report.pdf) ➡ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/ja-solar-2019-annual-report.pdf](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/ja-solar-2019-annual-report.pdf)
- [JA solar 2020 annual report \(PDF, 10.3MB\)](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/ja-solar-2020-annual-report.pdf) ➡ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/ja-solar-2020-annual-report.pdf](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/ja-solar-2020-annual-report.pdf)
- [Jinko 2017 Annual Report \(PDF, 11.2MB\)](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2017-annual-report.pdf) ➡ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2017-annual-report.pdf](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2017-annual-report.pdf)
- [Jinko 2018 Annual Report \(PDF, 38MB\)](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2018-annual-report.pdf) ➡ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2018-annual-report.pdf](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2018-annual-report.pdf)
- [Jinko 2018 Resubmitted the Environmental Impact Report for the Monocrystalline Silicon Pull Rod Construction Project with an Annual Output 5GW of Xinjiang JinkoSolar Co., Ltd \(PDF, 2.7MB\)](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2018-resubmitted-the-environmental-impact-report-for-the-monocrystalline-silicon-pull-rod-construction-project-with-an-annual-output-5gw-of-xinjiang-jinkosolar-co.-.pdf) ➡ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2018-resubmitted-the-environmental-impact-report-for-the-monocrystalline-silicon-pull-rod-cons.pdf](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2018-resubmitted-the-environmental-impact-report-for-the-monocrystalline-silicon-pull-rod-cons.pdf)
- [Jinko 2020 Prospectus Supplement \(PDF, 2.2MB\)](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2020-prospectus-supplement.pdf) ➡ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2020-prospectus-supplement.pdf](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/jinko-2020-prospectus-supplement.pdf)
- [Jinko Energy 2016 Phase I 20MW Optical](https://www.helena-kennedy-centre/projects/pdfs/evidence-base/jinko-energy-2016-phase-i-20mw-optical)



[Grid-connected Power Plant Project Emission Reduction Verification Report \(PDF, 1.4MB\) ➡ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/jinko-energy-2016-phase-i-20mw-optical-gridconnected-power-plant-project-emission-reduction-verifica.pdf](#)

- [Jinko Power Technology 2019 Prospectus \(Application Draft\) \(PDF, 4.9MB\) ➡ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/jinko-power-technology-2019--prospectus-application-draft.pdf](#)
- [LONGi Green Energy 2019 Annual Report \(PDF, 4.2MB\) ➡ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/longi-green-energy-2019-annual-report.pdf](#)
- [LONGi Green Energy 2020 Semi Annual Report \(PDF, 3.8MB\) ➡ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/longi-green-energy-2020-semi-annual-report.pdf](#)
- [Risen Energy 2019 Annual Report \(PDF, 8.8MB\) ➡ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/risen-energy-2019-annual-report.pdf](#)
- [TBEA 2018 Annual Report \(PDF, 3.6MB\) ➡ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/tbea-2018-annual-report.pdf](#)
- [TBEA 2019 Annual Report \(PDF, 4.4MB\) ➡ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/tbea-2019-annual-report.pdf](#)
- [Tianjin Zhonghuan 2020 Summary of Prospectus for Tianjin Zhonghuan](#)

[Semiconductor Co., Ltd. for the Public Issuance of Corporate Bonds \(Phase 1\) to Qualified Investors in 2020 \(PDF, 6.7MB\) ▶▶ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/zhonghuan-2020-summary-of-prospectus-for-tianjin-zhonghuan-semiconductor-co-ltd-for-the-public-issua.pdf](#)

- [Tianjin Zhonghuan Semiconductor 2019 Annual Report \(PDF, 9.3MB\) ▶▶ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/zhonghuan-semiconductor-2019-annual-report.pdf](#)
- [Tianye Tolian 2019 Major Assets Sale and Issuance of Shares to Purchase Assets Related Transaction Report of Qinghuang dao Tianye Tolian Heavy Industry \(PDF, 9.6MB\) ▶▶ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/tianye-tolian-2019-major-assets-sale-and-issuance-of-shares-to-purchase-assets-related-transaction-r.pdf](#)
- [Tianye Tolian 2019 The Legal Opinion of Beijing King&Wood Mallesons on the Sale of Major Assets and the Issuance of Shares to Purchase Assets and Related Transactions of Qinhuangdao Tianye Tolian Heavy Industry Co., Ltd \(PDF, 12.4MB\) ▶▶ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/tianye1.pdf](#)
- [Tongwei 2019 Annual Report \(PDF, 4.6MB\) ▶▶ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/tongwei-2019-annual-report.pdf](#)
- [Tongwei 2020 Announcement of Tongwei](#)



[Co., Ltd. on Signing a Major Sales Framework Contract. \(PDF, 180.5KB\) ▶▶ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/tongwei-2020-announcement-of-tongwei-co-ltd-on-signing-a-major-sales-framework-contract.pdf](#)

- [Trina 2021 Prospectus for the issuance of convertible corporate bonds by Trina Solar Co., Ltd. to unspecified targets \( draft\) \(PDF, 6.6MB\) ▶▶ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/trina-2021-prospectus-for-the-issuance-of-convertible-corporate-bonds-by-trina-solar-co-ltd-to-unspe..pdf](#)
- [Trina Solar 2020 Prospectus \(PDF, 24.7MB\) ▶▶ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/trina-solar-2020-prospectus.pdf](#)
- [Wuxi Shangji Automation 2020 Announcement of Wuxi Shangji Automation Co., Ltd. on the Signing of Major Procurement Contracts by its Subsidiaries \(PDF, 151.5KB\) ▶▶ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/wuxi-shangji-automation-2020-announcement-of-wuxi-shangji-automation-co-ltd-on-the-signing-of-major.pdf](#)
- [Wuxi Shangji Automation 2020 Signed a major purchase contract for silicon materials of nearly 4 billion yuan, and the monocrystalline silicon business is expected to exceed expectations. \(PDF, 1011.9KB\) ▶▶ /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/wuxi-shangji-automation-2020-signed-a-major-purchase-contract-for-silicon-materials-of-](#)

[nearly-4-bill.pdf](#)

- [Xinjiang TBEA 2019 Prospectus \(PDF, 7MB\)](#) ➤ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/xinjiang-tbea-2019--prospectus.pdf](#)
- [Xinjiang Tianfu 2020 Semi annual Report \(PDF, 3.1MB\)](#) ➤ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/xinjiang-tianfu-2020-semi-annual-report.pdf](#)
- [Xinjiang Tianye 2018 Annual Report \(PDF, 3.8MB\)](#) ➤ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/xinjiang-tianye-2018-annual-report.pdf](#)
- [Xinte Crystalline 2019 Xinjiang Xinte Crystalline Silicon High-Tech Co., Ltd. 3X12,000 Tons of High-purity Polysilicon Industry Upgrade Construction Project Completed Environmental Protection Acceptance Monitoring Report \(PDF, 4.9MB\)](#) ➤ [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/xintec1.pdf](#)

## **Government Reports, Rulings, and Directives**

Local and regional governments provide cadres with specific instructions as to how to operate labour transfers and surplus labour programmes. These directives and reports help us to understand the way the state is integrally involved in labour recruitment practices in the Uyghur Region.

- [Outline of the 13th Five-Year Plan for the National Economic and Social Development of the XUAR \(PDF, 1.1MB\)](#) ➤ [/-](#)



</media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/outline-of-the-13th-five-year-plan-for-the-national-economic-and-social-development-of-the-xUAR.pdf>

- [Final Review Ruling of the Ministry of Commerce of the PRC on the Countervailing Measures Applicable to Imported Solar-grade Polysilicon Originating in the United States \(PDF, 724.4KB\) ▶▶ /-](#)  
</media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/final-review-ruling-of-the-ministry-of-commerce-of-the-prc-on-the-countervailing-measures-applicable.pdf>
- [Liurui 2016 Hami Liurui 13th Division Liushuquan Farm Phase I 20MW Photovoltaic Power Project Water and Soil Conservation Facilities Summary report \(PDF, 31.2MB\) ▶▶ /-](#)  
</media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/liurui-2016-hami-liurui-13th-division-liushuquan-farm-phase-i-20mw-photovoltaic-power-project-water.pdf>

## **Industrial Parks**

Industrial parks play a central role in the development of the industry in the Uyghur Region, as well as in the transfer of labour.

- [Shanshan 2020 Shanshan Longsheng Carbon Manufacturing Environmental Protection Acceptance Monitoring Report \(PDF, 1.6MB\) ▶▶ /-](#)  
</media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/shanshan-2020-shanshan-longsheng-carbon-manufacturing-environmental-protection-acceptance-monitoring.pdf>

- [Shanshan Longsheng 2020 The Environmental Protection Acceptance Monitoring Report of Shanshan Longsheng Carbon Manufacturing Co., Ltd. with an Annual Output of 10,000 Tons of Special Graphite Comprehensive Utilization Project \(PDF, 1.7MB\) »» /- /media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/shansh2.pdf](#)
- [Shanshan County People's Government Network—Wusman.Yiliniyazi \(PDF, 586.3KB\) »» /- /media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/shanshan-county-peoples-government-networkwusmanyiliniyazi.pdf](#)
- [Shanshan stone park 2019 Implementation Evaluation Report of Xinjiang Shanshan Stone Industrial Park Master Plan \(2005-2020\) \(PDF, 3.5MB\) »» /- /media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/shanshan-stone-park-2019-implementation-evaluation-report-of-xinjiang-shanshan-stone-industrial-park.pdf](#)
- [Xinyuan Industrial Park 2015 Investment Guide \(PDF, 4.3MB\) »» /- /media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/xinyuan-industrial-park-2015-investment-guide.pdf](#)
- [Yili Jincheng 2019 Environmental Impact Report on the Pipe Manufacturing Project of Yili Jincheng Jiaye Pipe Manufacturing Co., Ltd \(PDF, 6MB\) »» /- /media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/yili-jincheng-2019-environmental-impact-report-on-the-pipe-manufacturing-project-of-yili-](#)



[jincheng-ji.pdf](#)

- [Yili Kazakh Autonomous Prefecture 2017 Investment Promotion Documents \(PDF, 2.5MB\)](#)  [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/yili-kazakh-autonomous-prefecture-2017-investment-promotion-documents.pdf](#)
- [Yongxiang 2018 Corporate Social Responsibility Report \(PDF, 424.8KB\)](#)  [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/yongxiang-2018-corporate-social-responsibility-report.pdf](#)

### **Peking University report on minority laborers in Xinjiang.**

- [Li Xiaoxia, “新疆少数民族产业工人队伍发展及现状分析” \[An analysis of the development and status of Xinjiang minority industrial workers\], Peking University Department of Sociology, 2015 \(PDF, 1.4MB\)](#)  [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/lixiaoxia-an-analysis-of-the-development-and-status-quo-of-the-ethnic-minority-industrial-workers-in.pdf](#).

### **Industry Responses to Forced Labour in the Uyghur Region**

- [SEIA Supply Chain Traceability Protocol v1.0 April 2021 \(PDF, 1.8MB\)](#)  [/-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/seia-supply-chain-traceability-protocol-v10-april-2021.pdf](#)
- [Corporate Responses to Requests for Information \(PDF, 262.6KB\)](#)  [/-/media/home/research/helena-kennedy-](#)

## News

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BBC (2021), [China uses Uyghur forced labour to make solar panels, says report](https://www.bbc.co.uk/news/world-asia-china-57124636) ➤

<https://www.bbc.co.uk/news/world-asia-china-57124636>, 15 May 2021.

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CNN (2021), [Solar panels are key to Biden's energy plan. But the global supply chain may rely on forced labor from China](https://edition.cnn.com/2021/05/14/energy/china-solar-panels-uyghur-forced-labor-dst-intl-hnk/index.html) ➤

<https://edition.cnn.com/2021/05/14/energy/china-solar-panels-uyghur-forced-labor-dst-intl-hnk/index.html>, 14 May 2021.

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The Information's 411 (2021), [Apple and Uyghur Labor](https://anchor.fm/the-informations-411/episodes/Apple-and-Uyghur-Labor-e10t9p5) ➤ <https://anchor.fm/the-informations-411/episodes/Apple-and-Uyghur-Labor-e10t9p5> [Audio podcast episode], 15 May 2021.

## Research team



[▶ /about-us/our-people/staff-profiles/laura-murphy](#)

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Laura  
Murphy**

Professor of  
Human Rights  
and  
Contemporary  
Slavery

[Laura  
Murphy](#) ▶  
[/about-us/our-people/staff-profiles/laura-murphy](#)



**Nyrola  
Elimä**

Supply Chain  
Analyst

**Related projects**



**Modern  
Slavery  
and Human  
Trafficking**

The Helena  
Kennedy  
Centre for



**Forced  
Labour Lab**

The Forced  
Labour Lab at  
the Helena  
Kennedy  
Centre is an



**Investigating  
Modern  
Slavery**

Students and  
staff at  
Sheffield  
Hallam worked

International  
Justice is a  
thought  
leader in the  
effort to  
address  
forced labour  
worldwide.

We support  
community  
partners  
addressing  
modern  
slavery  
internationally  
and in the UK  
through our  
research,  
clinics, and  
consultation.

initiative to  
provide an  
evidence  
base for  
better  
understanding  
forced labour  
globally.

with police in  
Derbyshire and  
Latvia to  
expose a large  
human  
trafficking  
operation.

» /helena-  
kennedy-  
centre-  
international-  
justice/research-  
and-  
projects/all-  
projects/forced-  
labour-lab

» /helena-  
kennedy-  
centre-  
international-  
justice/research-  
and-  
projects/all-  
projects/investigating-  
modern-slavery

» /helena-  
kennedy-  
centre-  
international-  
justice/research-  
and-  
projects/all-  
projects/modern-  
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**From:** Roger McNitt rmcnitt@bkflaw.com  
**Subject:** Biden's solar ambitions collide with China labor complaints - The San Diego Union-Tribune  
**Date:** June 5, 2021 at 5:08 PM  
**To:** chuck.kinney@co.kings.ca.us  
**Cc:** tlglaw@aol.com



<https://www.sandiegouniontribune.com/business/nation/story/2021-05-23/bidens-solar-ambitions-collide-with-china-labor-complaints>

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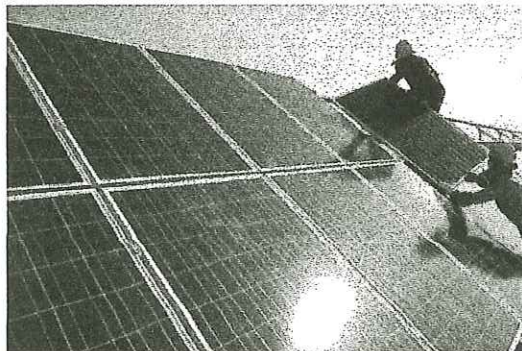
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NATIONAL BUSINESS

# Biden's solar ambitions collide with China labor complaints



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Workers install solar panels at a photovoltaic power station in Hami in northwestern China's Xinjiang Uyghur Autonomous Region Monday Aug. 22, 2011. The Biden administration's solar power ambitions are colliding with complaints the global industry depends on Chinese raw materials that might be produced by forced labor. One big hurdle is polysilicon from Xinjiang, commonly used to make photovoltaic cells for solar panels. (Chinatopix via AP) (ASSOCIATED PRESS)

By JOE MCDONALD | ASSOCIATED PRESS

MAY 24, 2021 3:57 AM PT

BEIJING — The Biden administration's solar power ambitions are colliding with complaints the global industry depends on Chinese raw materials that might be produced by forced labor.

A big hurdle is polysilicon, used to make photovoltaic cells for solar panels. The global industry gets 45% of its supply from Xinjiang, the northwestern region where the ruling Communist Party is accused of mass incarceration of minorities and other abuses. Other parts of China supply 35%. Only 20% comes from U.S. and other producers.

Biden's climate envoy, John Kerry, says Washington is deciding whether to keep solar products from Xinjiang out of U.S. markets. That sets up a conflict with President Joe Biden's plans to cut climate-changing carbon emissions by promoting solar and other renewable energy while also reducing costs.

In Xinjiang, more than 1 million Uyghurs and other members of predominantly Muslim ethnic groups have been forced into detention camps, according to foreign researchers and governments. Authorities are accused of forced sterilizations of minorities and of destroying mosques.

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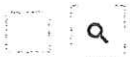
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**The San Diego Union-Tribune**



Chinese officials reject accusations of abuse and say the camps are for job training aimed at economic development and deterring radicalism.

U.S. and some Chinese solar vendors have pledged to avoid suppliers that might use forced labor. It isn't clear, however, whether they can meet rising demand without Xinjiang, where Beijing won't allow independent



inspections of workplaces.

The biggest manufacturers all use raw materials from Xinjiang and have a “high risk of forced labor in their supply chains,” according to a [May 14 report](#) by researchers Laura T. Murphy and Nyrola Elima of Britain’s Sheffield Hallam University.

The possibility of forced labor “is a problem,” Kerry told U.S. legislators last week. He cited “solar panels that we believe in some cases are being produced by forced labor.”

Western governments have imposed travel and financial restrictions on Chinese officials blamed for abuses. The [U.S. government](#) has banned imports of cotton and tomatoes from Xinjiang, citing concerns over [forced labor](#).

The administration was assessing whether to extend that ban to solar panels and raw materials from Xinjiang, Kerry said. He said he didn’t know the status of that review.

At issue is the government’s “labor transfer” program, which places workers in Xinjiang with companies.

Chinese officials say it is voluntary, but Murphy and Elima argue it takes place in “an environment of unprecedented coercion” and is “undergirded by the constant threat of re-education and internment.”

“Many indigenous workers are unable to refuse or walk away from these jobs,” their report says. It says the programs are “tantamount to forcible transfer of populations and enslavement.”

Murphy and Elima said they found 11 companies engaged in forced labor transfers of Uyghurs and other minorities and 90 Chinese and foreign enterprises whose supply chains

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are affected. They said manufacturers need to make “significant changes” if they want to avoid suppliers that use forced labor.

Murphy and Elima say the biggest global solar equipment manufacturers — JinkoSolar Inc., LONGi Green Energy Technology Co., Trina Solar Energy Co. and JA Solar Holdings Co. — might have forced labor in their supply chains.

Trina and JinkoSolar also have “possible labor transfers” in factories, while a JinkoSolar facility is in an industrial park that also has a prison, according to Murphy and Elima.

JinkoSolar, LONGi, Trina and JA Solar didn’t immediately respond to questions about the report.

At the same time, a supply crunch as demand surges has boosted polysilicon prices more than 100% since January to a 9-year high.

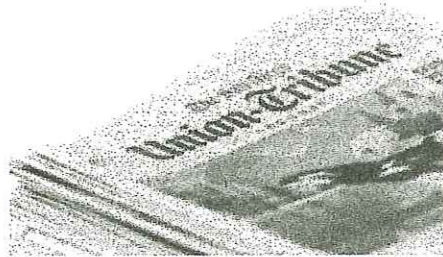
The market is “already undersupplied,” Johannes Bernreuter, head of Germany’s Bernreuter Research, said in an email.

China is both the biggest global market for solar equipment and the biggest producer.

That reflects multibillion-dollar government spending over the past two decades to promote solar energy. The ruling party wants to curb reliance on imported oil and gas, which it sees as a security weakness, and take the lead in an emerging industry.

A supply glut as hundreds of Chinese manufacturers rushed into the industry 15 years ago drove prices down. That hurt Western competitors but accelerated adoption of solar in the United States and Europe.

Seven of the top 10 global producers are Chinese. Canadian Solar Inc. is registered in



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Canada but its production is in China. South Korea's Hanwha Q-Cells is No. 6.

The only U.S. producer in the top 10, First Solar Inc., has no exposure to the Xinjiang polysilicon supply chain because the Tempe, Arizona, company uses thin film technology that requires no polysilicon.

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Vendors serving U.S. and European markets probably can get enough polysilicon outside Xinjiang, Bernreuter said. But he said supplies might be squeezed if other countries impose the same requirement. ✓

Potential non-Chinese suppliers include Germany's Wacker Chemie AG and the Malaysian arm of South Korea's OCI Co.

However, those companies also might buy raw materials from Xinjiang's biggest supplier, Hoshine Silicon Industry Co., according to Murphy and Elima. They cited documents they said show Hoshine, also known as Hesheng, participates in "labor transfer."

Hoshine didn't immediately respond to questions about the report.



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U.S. solar equipment vendors have been trying since last year to overhaul supply chains to eliminate problem suppliers, according to their trade group, the Solar Energy Industries Association.

In February, 175 companies including the U.S. arms of JinkoSolar, LONGi, Trina and JA Solar signed a pledge to oppose use of forced labor by their suppliers.

Potential changes should be done by the end of June, according to the group's president, Abigail Ross Hopper.

"If their customers and the U.S. government are demanding it, they will need to move quickly," Ross Hopper told PV Magazine USA in February.

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Bernreuter warned the Chinese government "might interfere" with an overhaul, though there is no sign that has happened.

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Sheffield Hallam University report:  
[www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight](http://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight)

Bernreuter Research: [www.bernreuter.com](http://www.bernreuter.com)

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Solar Energy Industries Association:  
[www.seia.org](http://www.seia.org)

NATIONAL BUSINESS

Show Comments

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MORE IN THIS SECTION

## Attachment 2



AFFIDAVIT OF MAILING

STATE OF CALIFORNIA        )  
  )  
COUNTY OF KINGS            )

Victor Hernandez deposes and says:

That the affiant is and at all times here in mentioned was a citizen of the United States of America;

That affiant is over the age of eighteen years and not a party to or interested in the within actions;

That on the 28<sup>th</sup> day of May, 2021, affiant enclosed in an envelope one (1) copy of the Notice of Public Hearing for Conditional Use Permit No. 19-01 (Westlands Chestnut Solar). Sealed, addressed, and mailed.

See attached mailing list:

and on said day deposited the same so addressed and with postage thereon fully prepaid in a facility maintained by the United States Government for the disposition of mail, in the City of Hanford, County of Kings, State of California;

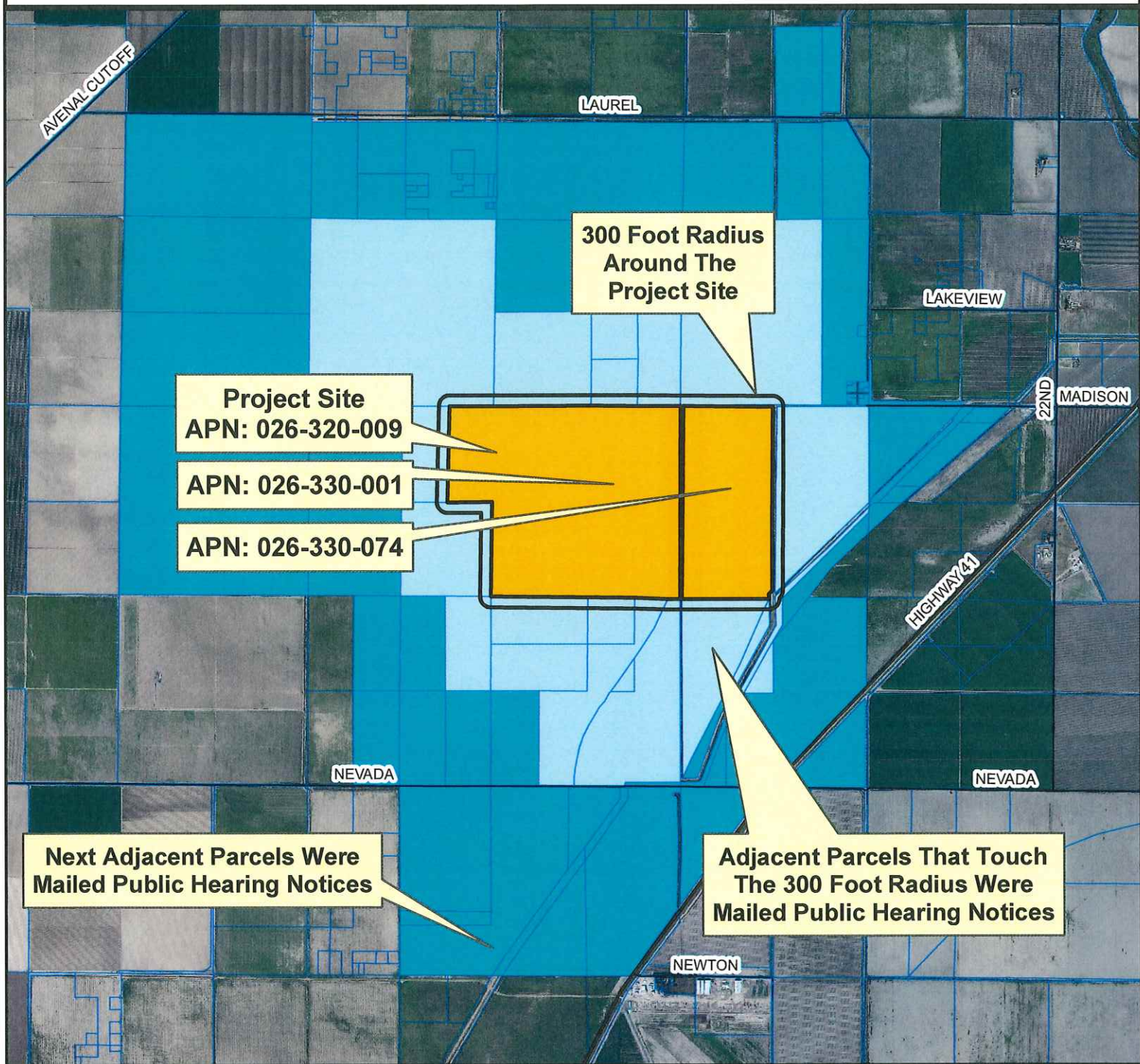
That there is a delivery service by the United States mail at the place so addressed or that there is a regular communication by mail between the place of mailing and the place addressed.

I hereby certify under penalty of perjury, that the above is true and correct.

Executed at Hanford, California, on the 28<sup>th</sup> day of May, 2021.

  
\_\_\_\_\_

# Site Location and Mailing List Map For Conditional Use Permit No. 19-01- Amendment (Westlands Chestnut Solar)



Map prepared by  
**Victor Hernandez**  
May 26, 2021  
**Kings County Community Development Agency**  
1400 W. Lacey Boulevard, Hanford, CA 93230 (559) 852-2670



## LEGEND

- Project Site**
- Parcels that touch the 300 foot radius were mailed a public hearing notice**
- Next adjacent parcels that were mailed a public hearing notice**

- Circulation TYPE**
- CROSSING
  - EXIT
  - HIGHWAY
  - INTERSTATE
  - OFFRAMP
  - ONRAMP
  - Private
  - Street





# KINGS COUNTY COMMUNITY DEVELOPMENT AGENCY

Greg Gatzka, Director

## PLANNING DIVISION

Chuck Kinney, Deputy Director – Planning

Web Site: <http://www.countyofkings.com/departments/community-development-agency>

### NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that the Kings County Planning Commission will hold a public hearing to consider an amendment to Conditional Use Permit No. 19-01 filed by Westlands Chestnut Solar, LLC on property shown on the enclosed diagram.

The applicant is proposing to amend a previously approved Conditional use Permit to allow for the following modifications of the originally approved Conditional Use Permit. Modification number 1 would increase the permitted battery storage units from 44 units to 150 units, this would increase the area covered by battery storage units from approximately 2 acres to approximately 6 acres. Modification number 2 would move the proposed location of the project operations center from the northwest portion of the project site to the southwest corner of the project site. Modification number 3 would add a central microwave communication tower up to 175 feet tall. Modification number 4 would include the Gen-Tie line which was previously approved through Conditional Use Permit No. 17-04 (Aquamarine solar) to be included as part of the Westlands Chestnut Solar project for the purpose of delivering solar generation from the Chestnut Solar Project to the State electrical grid. The Project Site is to be located at 24998 Nevada Avenue, Lemoore, Assessor's Parcel Numbers 026-320-009, 026-330-001 and 074.

Said hearings will be held Monday, June 7, 2021, at 12:45 p.m. via teleconference (**see detailed instructions listed below**). Pursuant to *California Government Code* Section 65009, subdivision (b), if you challenge the amendment to Conditional Use Permit No. 19-01, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Kings County Planning Commission at, or prior to, the public hearing.

At the above notice time and date, all interested persons who may be interested in this proposal will be given the opportunity to comment pursuant to the meeting protocol listed below. You may submit written comments in advance of the hearing by delivering or mailing some to the Kings County Community Development Agency – Planning Division at the address below or emailing to the Community Development Agency, Executive Secretary at [Terri.Yarbrough@co.kings.ca.us](mailto:Terri.Yarbrough@co.kings.ca.us). The proposal file may be examined at the Kings County Community Development Agency, Building No. 6, Kings County Government Center, 1400 W. Lacey Blvd., Hanford, California. For more information about the amendment to Conditional Use Permit No. 19-01 (Westlands Chestnut Solar) please call Chuck Kinney, of the Kings County Community Development Agency at (559) 852-2670.

### COUNTY OF KINGS COVID-19 PUBLIC MEETING PROTOCOL

The County of Kings hereby provides notice that it will convene a special Planning Commission meeting by teleconference and will close its Board Chambers to the public generally, except as described below. Interested members of the public may attend the Planning Commission meeting telephonically or by the Internet, and to participate in the meeting to the same extent as if they were present in the Board's Chambers. Members of the public who choose to attend virtually by phone, may listen to the audio broadcast of the meeting, but will not be able to comment during the meeting. Only those members of the public who need a special accommodation



(vision, hearing, etc.), may attend the Planning Commission meeting in the Board Chambers. No more than 10 individuals will be allowed in the Chambers at a time. To secure the accommodation consistent with the American's with Disabilities Act (ADA), interested parties may contact the Executive Secretary of Community Development as directed below no later than 8:30 a.m. the morning of the meeting.

The details on how to participate in the public Planning Commission meeting by Internet or phone will be posted with the Planning Commission meeting agenda.

**Postal/Electronic Mail:** For members of the public who are unable to participate virtually may submit written comments on any matter within the Planning Commission's subject matter jurisdiction, regardless of whether it is on the agenda, and those comments will be entered into the administrative record of the meeting. To submit written comments by U.S. Mail or email for inclusion in the meeting record, they must be received by the Executive Secretary of Community Development Agency no later than 8:00 a.m. on the morning of the noticed meeting. To submit written comments by email, please forward them to [Terri.Yarbrough@co.kings.ca.us](mailto:Terri.Yarbrough@co.kings.ca.us). To submit such comments by U.S. Mail, please forward them to: County of Kings, Community Development Agency – Planning Division, 1400 W. Lacey Blvd. Building #6, Hanford, CA 93230.

KINGS COUNTY PLANNING COMMISSION

A handwritten signature in black ink, appearing to read "Greg Gatzka", with a horizontal line extending to the right from the end of the signature.

Gregory R. Gatzka, Secretary

026240026000  
EMPIRE WEST SIDE IRRIGATION DISTRICT  
P O BOX 1149  
HANFORD CA 93232

026260009000  
AQUAMARINE WESTSIDE LLC  
C/O APRIL COCHRAN PROPERTY TAX DIRECTOR  
P O BOX 130639  
CARLSBAD CA 92013

026260032000  
CANDIDO, NANCY C & ANTHONY N W/H  
463 WEST ST A-1111  
NEW YORK NY 10014

026260027000  
WESTLANDS WATER DISTRICT  
P O BOX 6056  
FRESNO CA 93703-6056

026260019000  
SANDRIDGE PARTNERS LP  
C/O BRIAN TJADER  
960 N SAN ANTONIO RD STE 114  
LOS ALTOS CA 94022

026270002000  
OLIVER, BARBARA TRUST 50%  
C/O BARBARA OLIVER, TRUSTEE  
85 S OLIVER AVE  
SANGER CA 93657-9601

026270008000  
STOCKWELL, STEVEN E & KATHLEEN  
C/O ADELAIDO HINDMAN  
P O BOX 590  
PEARLBLOSSOM CA 93553

026280009000  
SURVIVOR'S TRUST OF THE GAHVEJIAN FAM TST  
C/O JOHN GAHVEJIAN TRUSTEE  
1740 S CLAREMONT AVE  
FRESNO CA 93727

026280020000  
WETHERILL, HILDA F ET AL  
C/O WESTLAKE FARMS INC  
23311 NEWTON AVE  
STRATFORD CA 93266

026280024000  
UNITED STATES OF AMERICA  
UNKNOWN

026300034000  
BLUHM, NANCY  
1306 W HERNDON AVE #101  
FRESNO CA 93711

026300032000  
ESAJIAN LAND CO  
P O BOX 100  
LEMOORE CA 93245

026320008000  
BECKER, ERNEST A JR TEST TRUST 50%  
C/O BARRY W BECKER  
50 S JONES BLVD STE 101  
LAS VEGAS NV 89107

026330056000  
TULARE LAKE BASIN WATER STORAGE DIST  
1109 WHITLEY AVE  
CORCORAN CA 93212

026330032000  
MARKS, EDWIN & JACQUELINE TRUST  
C/O MELINDA M MATTHEWS  
7287 RIVERWIND WAY  
SACRAMENTO CA 95831

026330048000  
SANDRIDGE PARTNERS LP  
23311 NEWTON AVE  
STRATFORD CA 93266

026330069000  
TULARE LAKE BASIN WATER STORAGE DIST  
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CORCORAN CA 93212-2333

036060047000  
WESTLAKE FARMS INC  
23311 NEWTON AVE  
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RESIDENT  
24999 LAUREL AVE  
STRATFORD, CA 93266

RESIDENT  
25959 LAUREL AVE  
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# Attachment 3



**\*\*\* Proof of Publication \*\*\***

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HANFORD CA 93230  
USA

ORDER NUMBER 32249

Publication- The Hanford Sentinel

State of California

County of Kings

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I am over the age of eighteen years, and not a part to or interested in  
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been adjudged a newspaper of general circulation by the superior  
court of the County of Kings, State of California, under the date of  
October 23, 1951, case number 11623.

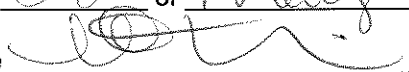
That I know from my own personal knowledge the notice, of which the  
annexed is a printed copy (set in type not smaller than nonpareil), has  
been published in each regular and entire issue of said newspapers and  
not in any supplement thereof on the following dates, to wit:

Section: Legals  
Category: 201 Public Notices  
PUBLISHED ON: 05/28/2021

TOTAL AD COST: 439.05  
FILED ON: 05/28/2021

I certify (or declare) under penalty of perjury that the foregoing is true  
and correct.

Dated at Kings County, California

This Day 28 of May, 2021  
Signature 

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Kings County Planning Commission will hold a public hearing, pursuant to provisions of Appendix A of the Kings County Code of Ordinances (Development Code No. 668.15), to consider the following applications:

1. Conditional Use Permit No. 20-02 (Westlands Solar Grape) The applicant is proposing to establish an approximately 250 megawatt (MW) alternating current (AC) solar photovoltaic (PV) generating farm, including the construction of an electrical substation, a battery energy storage facility, an Operations and Maintenance (O&M) facility, access driveways and electrical interconnection/gen-tie line on approximately 1,759 acres of agricultural land in the unincorporated Kings County, California. The Project Site is to be located on the north side of Nevada Avenue, approximately one-half mile west of SR-41, Assessors Parcel Numbers 026-320-010, -011, -021, -022, -023, -024, -025, -026, -027, -028; 026-330-032, -033, -034, -035, -036, -037, -055 and 026-330-057.

2. Conditional Use Permit No. 19-01 Amendment (Westlands Chestnut Solar) The applicant is proposing to amend a previously approved Conditional use Permit to allow for the following modifications of the originally approved Conditional Use Permit. Modification number 1 would increase the permitted battery storage units from 44 units to 150 units, this would increase the area covered by battery storage units from approximately 2 acres to approximately 6 acres. Modification number 2 would move the proposed location of the project operations center from the northwest portion of the project site to the southwest corner of the project site. Modification number 3 would add a central microwave communication tower up to 175 feet tall. Modification number 4 would include the Gen-Tie line which was previously approved through Conditional Use Permit No. 17-04 (Aquamarine solar) to be included as part of the Westlands Chestnut Solar project for the purpose of delivering solar generation from the Chestnut Solar Project to the State electrical grid. The Project Site is to be located at 24998 Nevada Avenue, Lemoore, Assessors Parcel Numbers 026-320-009, 026-330-001 and 074.

3. Conditional Use Permit No. 19-02 Amendment (Westlands Blue Solar) The applicant is proposing to amend a previously approved Conditional use Permit to allow for the following modifications of the originally approved Conditional Use Permit. Modification number 1 would increase the permitted battery storage units from 84 units to 250 units, this would increase the area covered by battery storage units from approximately 3 acres to approximately 9 acres. Modification number 2 would move the proposed location of the project operations center from the south-central area of the project site to the north central area of the project site. Modification number 3 would include the Gen-Tie line which was previously approved through Conditional Use Permit No. 17-04 (Aquamarine solar) to be included as part of the Westlands Blue Solar project for the purpose of delivering solar generation from the Chestnut Solar Project to the State electrical grid. The Project Site is to be located at 25959 Laurel Avenue, Lemoore, Assessors Parcel Numbers 026-260-001, 002, 003, 016, 017, 018, 019; 026-260-021, 026, 027, 029, 031; 026-280-033 and 026-320-007.

Said hearings will be held Monday, June 7, 2021, at 12:45 p.m. via teleconference (see detailed instructions listed below). Pursuant to California Government Code Section 65009, subdivision (b), if you challenge Conditional Use Permit No. 20-02 (Westlands Solar Grape), Conditional Use Permit No. 19-01 Amendment (Westlands Chestnut Solar), Conditional Use Permit No. 19-02 Amendment (Westlands Blue Solar), you may be limited to raising only those issues you or

someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Kings County Planning Commission at, or prior to, the public hearing.

Anyone who may be interested in these proposals is invited to appear and present his or her comments, evidence, or make statements of fact regarding said proposal. You may submit written comments in advance of the hearing by delivering or mailing some to the Kings County Community Development Agency Planning Division at the address below or emailing to the Community Development Agency, Executive Secretary at Terri.Yarbrough@co.kings.ca.us. The proposal files may be examined at the Kings County Community Development Agency, Building No. 6, Kings County Government Center, 1400 W. Lacey Blvd., Hanford, California. For more information about Conditional Use Permit No. 20-02 (Westlands Solar Grape), please call Victor Hernandez, of Kings County Community Development Agency, at (559) 852-2685. For more information about Conditional Use Permit No. 19-01 Amendment (Westlands Chestnut Solar) or Conditional Use Permit No. 19-02 Amendment (Westlands Blue Solar) please call Chuck Kinney, of the Kings County Community Development Agency, at (559) 852-2670.

#### COUNTY OF KINGS COVID-19 PUBLIC MEETING PROTOCOL

The County of Kings hereby provides notice that it will convene a special Planning Commission meeting by teleconference and will close its Board Chambers to the public generally, except as described below. Interested members of the public may attend the Planning Commission meeting telephonically or by the Internet, and to participate in the meeting to the same extent as if they were present in the Boards Chambers. Members of the public who choose to attend virtually by phone, may listen to the audio broadcast of the meeting, but will not be able to comment during the meeting. Only those members of the public who need a special accommodation (vision, hearing, etc.), may attend the Planning Commission meeting in the Board Chambers. No more than 10 individuals will be allowed in the Chambers at a time. To secure the accommodation consistent with the Americans with Disabilities Act (ADA), interested parties may contact the Executive Secretary of Community Development as directed below no later than 8:30 a.m. the morning of the meeting.

The details on how to participate in the public Planning Commission meeting by Internet or phone will be posted with the Planning Commission meeting agenda.

Postal/Electronic Mail: For members of the public who are unable to participate virtually may submit written comments on any matter within the Planning Commissions subject matter jurisdiction, regardless of whether it is on the agenda, and those comments will be entered into the administrative record of the meeting. To submit written comments by U.S. Mail or email for inclusion in the meeting record, they must be received by the Executive Secretary of Community Development Agency no later than 8:00 a.m. on the morning of the noticed meeting. To submit written comments by email, please forward them to Terri.Yarbrough@co.kings.ca.us. To submit such comments by U.S. Mail, please forward them to: County of Kings, Community Development Agency Planning Division, 1400 W. Lacey Blvd. Building #6, Hanford, CA 93230

#### KINGS COUNTY PLANNING COMMISSION

/s/ Gregory R. Gatzka

Gregory R. Gatzka, Secretary

Attachment 4



# KINGS COUNTY PLANNING COMMISSION

June 7, 2021

## AGENDA

Special Meeting  
12:45 P.M.

Government Center  
Hanford, California

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development Agency at (559) 852-2680 by 4:00 p.m. on the Thursday prior to this meeting. Agenda backup information and any public records provided to the Commission after the posting of the agenda for this meeting will be available for public review at the Kings County Community Development Agency, Building No. 6, Kings County Government Center, 1400 W. Lacey Blvd., Hanford, California.*

### **COUNTY OF KINGS PUBLIC MEETING PROTOCOL IN RESPONSE TO CORONAVIRUS COVID-19**

California Governor Gavin Newsom issued Executive Orders N-25-20 and N-29-20 on March 12, 2020 and March 17, 2020, respectively, relating to the convening of public agency meetings in light of the COVID-19 pandemic. The County of Kings hereby provides notice that it will convene a special Planning Commission and Division Two of the Kings County Advisory Agency Meeting by teleconference going forward, and will close its Board Chambers to the public generally, except as described below, until further notice.

Pursuant to the Executive Orders, and to maintain the orderly conduct of the meeting, Kings County will allow the Planning Commission, County staff and interested members of the public to attend the meeting telephonically or by the Internet, and to participate in the meeting to the same extent as if they were present in the Board Chambers. Only those members of the public who cannot participate virtually, due to a need for a special accommodation (vision, hearing, etc.), may attend the meeting in the Board Chambers. A maximum of 10 individuals will be allowed in the Chambers at a time. To secure the accommodation consistent with the American's with Disabilities Act (ADA) and to attend in person, interested parties will need to contact the Executive Secretary of Community Development as directed below no later than 8:30 a.m. the morning of the meeting.

Members of the public who wish to participate in the meeting virtually can do so one of three ways: Via the worldwide web; by telephone; or by postal or electronic mail. Members of the public, who participate via their computers or through the WebEx app, may provide public comment at the meeting by using the "Raise Your Hand" function. Public comment will be limited to two (2) minutes during the "Unscheduled Appearances" section of the meeting. Public comment will not be available via phone. All others who wish to submit comments may only do so as outlined below.

• **Web Access:** To access the meeting via computer, please go to the County's Community Development Agency's homepage (<https://www.countyofkings.com/departments/community-development-agency>) and click on the link that says **Join Meeting**. You may also participate from your smart phone by downloading the WebEx Meetings app to your smartphone. After opening the app, click on Join Meeting, and then enter the meeting information.

The meeting number is **177 979 3248** and the password is **KINGS\_PC**.

• If you have trouble logging in through the Internet, you may join the meeting via telephone by calling **(415) 655-0003**, then enter the access code of **1779793248#**.

Members of the public who wish to comment may submit written comments on any matter within the Planning Commission's subject matter jurisdiction, regardless of whether it is on the agenda for Commission consideration or action, and those comments will be entered into the administrative record of the meeting. To submit written comments by U.S. Mail or email for inclusion in the meeting record, they must be received by the Executive Secretary of Community Development Agency no later than 8:00 a.m. on the morning of the noticed meeting. To submit written comments by email, please forward them to [Terri.Yarbrough@co.kings.ca.us](mailto:Terri.Yarbrough@co.kings.ca.us). To submit such comments by U.S. Mail, please forward them to: County of Kings, Community Development Agency – Planning Division, 1400 W. Lacey Blvd. Building #6, Hanford, CA 93230.

This special meeting will held by teleconference and will close its Board Chambers to the public generally, except as described above, until further notice. Pursuant to California Government Code Section 65009, subdivision (b), if you challenge a decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

**I. CALL TO ORDER - Kings County Planning Commission Meeting**

- 1. PLEDGE OF ALLEGIANCE**
- 2. SUMMARY OF THE AGENDA – Staff**
- 3. UNSCHEDULED APPEARANCES**

Any person may address the Commission on any subject matter within the jurisdiction or responsibility of the Commission at the beginning of the meeting; or may elect to address the Commission on any agenda item at the time the item is called by the Chair, but before the matter is acted upon by the Commission. Unscheduled comments will be limited to two minutes.

- 4. APPROVAL OF MINUTES - Meeting of April 5, 2021**

**II. OLD BUSINESS – NONE**

**III. NEW BUSINESS**

- 1. Conditional Use Permit No. 20-02 (Westlands Grape Solar) –** The applicant is proposing to establish an approximately 250 megawatt (MW) alternating current (AC) solar photovoltaic (PV) generating farm, including the construction of an electrical substation, a battery energy storage facility, an Operations and Maintenance (O&M) facility, access driveways and electrical interconnection/gen-tie line on approximately 1,759 acres of agricultural land in the unincorporated Kings County, California. The project site is to be located on the north side of Nevada Avenue, approximately one-half mile west of SR-41, Assessor’s Parcel Numbers 026-320-010, -011, -021, -022, -023, -024, -025, -026, -027, -028; 026-330-032, -033, -034, -035, -036, -037, -055 and 026-330-057.

- A. Staff Report
- B. Public Hearing
- C. Decision: Adopt Resolution No. 21-02 - Roll Call Vote

**NOTICE OF RIGHT TO APPEAL:** For projects where the Planning Commission's action is final, actions are subject to appeal by the applicant or any other directly affected person or party and no development proposed by the application may be authorized until the final date of the appeal period. An appeal may be filed with the Community Development Agency at 1400 W. Lacey Blvd., Building #6, Hanford, CA, on forms available at the Community Development Agency. A filing fee of \$1,000.00 must accompany the appeal form. The appeal must be filed within 8 days of the Planning Commission's decision date, not including the date of the decision. If no appeal is received, the Planning Commission's action is final. There is no right of appeal for projects for which the Planning Commission's action is advisory to the Board of Supervisors.

2. **Conditional Use Permit No. 19-01 Amendment (Westlands Chestnut Solar)** – The applicant is proposing to amend a previously approved Conditional use Permit to allow for the following modifications of the originally approved Conditional Use Permit. Modification number 1 would increase the permitted battery storage units from 44 units to 150 units, this would increase the area covered by battery storage units from approximately 2 acres to approximately 6 acres. Modification number 2 would move the proposed location of the project operations center from the northwest portion of the project site to the southwest corner of the project site. Modification number 3 would add a central microwave communication tower up to 175 feet tall. Modification number 4 would include the Gen-Tie line which was previously approved through Conditional Use Permit No. 17-04 (Aquamarine solar) to be included as part of the Westlands Chestnut Solar project for the purpose of delivering solar generation from the Chestnut Solar Project to the State electrical grid. The Project Site is to be located at 24998 Nevada Avenue, Lemoore, Assessor's Parcel Numbers 026-320-009, 026-330-001 and 074.

- A. Staff Report
- B. Public Hearing
- C. Decision: Adopt Resolution No. 21-03 - Roll Call Vote

3. **Conditional Use Permit No. 19-02 Amendment (Westlands Blue Solar)** – The applicant is proposing to amend a previously approved Conditional use Permit to allow for the following modifications of the originally approved Conditional Use Permit. Modification number 1 would increase the permitted battery storage units from 84 units to 250 units, this would increase the area covered by battery storage units from approximately 3 acres to approximately 9 acres. Modification number 2 would move the proposed location of the project operations center from the south-central area of the project site to the north central area of the project site. Modification number 3 would include the Gen-Tie line which was previously approved through Conditional Use Permit No. 17-04 (Aquamarine solar) to be included as part of the Westlands Blue Solar project for the purpose of delivering solar generation from the Chestnut Solar Project to the State electrical grid. The Project Site is to be located at 25959 Laurel Avenue, Lemoore, Assessor's Parcel Numbers 026-260-001, 002, 003, 016, 017, 018, 019; 026-260-021, 026, 027, 029, 031; 026-280-033 and 026-320-007.

- A. Staff Report
- B. Public Hearing
- C. Decision: Adopt Resolution No. 21-04 - Roll Call Vote

#### IV. MISCELLANEOUS

- 1. **FUTURE MEETINGS** - The next special meeting of the Planning Commission is scheduled for Monday, July 2, 2021.
- 2. **CORRESPONDENCE**
- 3. **STAFF COMMENTS**
- 4. **COMMISSION COMMENTS**

#### V. ADJOURNMENT

**NOTICE OF RIGHT TO APPEAL:** For projects where the Planning Commission's action is final, actions are subject to appeal by the applicant or any other directly affected person or party and no development proposed by the application may be authorized until the final date of the appeal period. An appeal may be filed with the Community Development Agency at 1400 W. Lacey Blvd., Building #6, Hanford, CA, on forms available at the Community Development Agency. A filing fee of \$1,000.00 must accompany the appeal form. The appeal must be filed within 8 days of the Planning Commission's decision date, not including the date of the decision. If no appeal is received, the Planning Commission's action is final. There is no right of appeal for projects for which the Planning Commission's action is advisory to the Board of Supervisors.

# Attachment 5



**KINGS COUNTY PLANNING COMMISSION  
STAFF REPORT**

**Conditional Use Permit No. 19-01 Modification No. 1  
Development Code No. 668.15  
June 7, 2021**

**APPLICANT:** Robert G. Dowds, Manager, Chestnut Westside, LLC (formerly known as Westlands Chestnut Solar, LLC)

**PROPERTY OWNERS:** Chestnut Westside, LLC, 4700 Wilshire Boulevard, Los Angeles, CA 90010

**LOCATION:** The project site is located on an approximately 1,040-acre site located within an unincorporated portion of Kings County. The site is located northwest of State Route 41, south of Laurel Avenue, west of 22<sup>nd</sup> Avenue, and is bounded on the north by the unimproved Madison Avenue alignment. The unimproved 25<sup>th</sup> Avenue alignment runs along the west side of the site from north to south.

**GENERAL PLAN DESIGNATIONS:** Exclusive Agriculture 40-Acre (eastern 320 acres); General Agriculture 40-Acre (western 720 acres).

**ZONE DISTRICT CLASSIFICATION:** General Agriculture (AG-40)

**PROPOSED MODIFICATION TO THE APPROVED CONDITIONAL USE:** The Applicant proposes to modify the previously approved CUP 19-01 for the Chestnut Solar Project as follows: (1) increase the number of battery storage units from 44 to 150; (2) change the planned location of the project operations center (i.e., substation, operations and maintenance facility, battery storage facility) from the north side of the project site to the south side; (3) include a microwave communications tower up to 175 feet tall within the project operations center; and (4) include in the modified CUP Number 19-01 the 7.2-mile segment of the gen-tie line extending from the substation on the Chestnut Solar Project site to the Fresno County line in the west.

**DISCUSSION:**

On October 7, 2019, the Kings County Planning Commission approved Conditional Use Permit (“CUP”) No. 19-01 by the adoption of Resolution No. 19-03. CUP No. 19-01 was approved to develop a 150 Megawatt (MW) photovoltaic (PV) solar energy generating facility to be constructed on approximately 1,040 acres located at 14998 Nevada Avenue, Lemoore.

The solar generation from the Chestnut Solar Project is planned to be conveyed to the State’s electrical grid via an approximately 15-mile long gen-tie line extending west to the Gates Substation on Jayne Avenue in Fresno County. The 8.7-mile long Kings County segment of the gen-tie line was previously approved by the Kings County Planning Commission as part of the Aquamarine Solar Project and Gen-Tie Line (CUP 17-04). This gen-tie line is intended to serve the Chestnut Solar Project as well as other solar projects within the Westlands Solar Park Master Plan area.

The proposed modification to CUP No. 19-01 involves changes to the approved project site plan within the existing project footprint and would not involve any expansion of the project beyond the approved project boundaries. The elements of the proposed CUP modification are described in detail below.

**1. Increased Number of Battery Storage Units**

The approved Chestnut Solar Project includes 44 battery storage units to be co-located with the project substation and O&M facility on an approximately 10-acre operations area in the central portion of the project site. The battery facilities are planned to allow storage of generated power when electrical demand is low and for delivery of stored power to the grid when demand is high. The battery storage containers would measure 40 feet long by 8 feet wide by 8.5 feet high and would include racks, switchboards, and integrated HVAC units. The battery storage units would be served by 44 inverters and 22 transformers located on separate pads outside the battery containers. The battery storage facility would occupy an area of approximately 2 acres within the 10-acre central operations area of the project. Within the project operations area, the substation and O&M facilities together would occupy approximately 3 acres, and the battery storage area would occupy another 2 acres, leaving approximately 5 acres of unused area.

The approved project CUP is proposed to be modified to include a total of 150 battery storage units. The modified project would include 40-foot long containers as originally proposed. (Alternatively, smaller 20-foot long battery containers could be selected, although the overall configuration and space requirements would be the same as for 40-foot containers.) The inverters and transformers for the battery units would be located outside the battery containers on dedicated equipment pads measuring 10 by 40 feet, with each inverter/transformer set serving two battery containers. Thus the battery storage system would consist of 150 battery containers and 75 inverter/transformer pads. The overall area covered by the battery storage facility would increase from approximately 2 acres to approximately 6 acres. As mentioned, the central operations area on the approved CUP site plan includes approximately 5 acres of unused area which would be sufficient to accommodate the additional 4 acres needed for the expanded battery storage facility.

## **2. Planned Change in Location of the Project Operations Center**

On the approved CUP site plan for the Chestnut Solar Project, the project operations center (consisting of the project substation, O&M facility, and battery storage facility) is planned to be located on an approximately 10-acre site in the northwest portion of the project site adjacent to the unimproved 25<sup>th</sup> Avenue alignment.

The approved project is planned to be modified to change the location of the project operations center to a site near the southwest corner of the project site, approximately 0.9 mile south of the previously approved location. Apart from the expansion of the battery storage facility within the 10-acre site, and the addition of a communications tower (described below) no other changes are proposed within the project operations center. Since the additional battery units would occupy an existing unutilized area within the planned operations center site, it would not require additional site area, as discussed above, and the size of the project operations center would remain unchanged at 10 acres. Under the modified plan, the previously approved site of the operations center would be utilized for solar arrays which would be equal to the area of solar arrays previously planned for the new planned location of the operations center. As such, there would be no change in the size of the solar collection fields or in any of the construction details related to the solar collection fields.

## **3. Planned Addition of a Communications Tower to the Project Operations Center**

The approved project is proposed to be modified to include a central microwave communications tower, up to 175 feet tall, within the planned project operations center. The microwave tower is intended to provide a redundant communications link between the project SCADA systems and external communications networks. The microwave tower would provide this redundancy for all of the solar projects planned for the Westlands Solar Park. The tower would consist of a lattice steel structure with a red constant safety light on top.

## **4. Inclusion of the Gen-Tie Line in the CUP Approval**

As noted above, the solar generation from the Chestnut Solar Project is planned to be conveyed to the State's electrical grid via an approximately 15-mile long 230-kV gen-tie line extending west to the Gates Substation on Jayne Avenue in Fresno County. The 8.7-mile long Kings County segment of the gen-tie line was previously approved by the Kings County Planning Commission as part of the Aquamarine Solar Project and Gen-Tie Line (CUP 17-04). (The 6.3-mile long western portion of the gen-tie line located in Fresno County was approved separately by the Fresno County Planning Commission in November 2019.) This gen-tie line is intended to serve the Chestnut Solar Project as well as other solar projects within the Westlands Solar Park Master Plan area. However, the approved CUP for the Chestnut Solar Project does not expressly state that the Kings County portion of the gen-tie line is specifically approved with the Chestnut Solar Project for the purpose of delivering solar generation from the Chestnut Solar Project to the State electrical grid.

In order to formally establish that the described Gen-Tie Line serving the Chestnut Solar Project is to be approved as an integral component of the Chestnut Solar Project and included in the subject Conditional Use Permit, the proposed CUP modification includes the 7.2-mile segment of the planned Gen-Tie Line running south from the planned Chestnut Solar Substation along the 25<sup>th</sup> Avenue alignment for 1.0 mile and then west along Nevada Avenue for an additional 6.2 miles to the Fresno County line (see Figures 1

and 2). As mentioned, this Gen-Tie segment was previously approved as part of the Aquamarine Solar Project and Gen-Tie Line (CUP 17-04) on September 9, 2019. However, the applicant is specifically seeking approval of the 7.2-mile Gen-Tie segment serving the Chestnut Solar Project as part of the modified Conditional Use Permit for the Chestnut Solar Project in order to establish that this CUP approval of the Gen-Tie Line is separate and independent from the approval of the Gen-Tie Line in the Aquamarine Solar Project and Gen-Tie Line CUP.

Full environmental review under CEQA for the entire Kings County portion of the Gen-Tie Line was provided in the Initial Study/Mitigated Negative Declaration (IS/MND) on the Aquamarine Solar Project and Gen-Tie Line, which is hereby incorporated into this document by reference. This provides CEQA review for the inclusion of the subject 7.2-mile Gen-Tie segment as part of the modified Conditional Use Permit for the Chestnut Solar Project. Since there have been no changes to the Gen-Tie project or in circumstances related to the Gen-Tie Line which have occurred since the Planning Commission's adoption of the Aquamarine Solar Project and Gen-Tie Line IS/MND on September 9, 2019, no further environmental review is required under CEQA for the subject 7.2 mile segment of the Gen-Tie Line. Therefore, this IS/MND Addendum does not repeat the detailed project description or environmental evaluation of the Kings County portion of the Gen-Tie Line contained in the previously adopted Aquamarine Solar Project and Gen-Tie Line IS/MND, which available for review at <https://www.countyofkings.com/home/showpublisheddocument?id=22579>.

### **California Environmental Quality Act (CEQA) Guidelines Section 15164**

California Environmental Quality Act Guidelines section 15164, found in the California Code of Regulations, allows for an Addendum to an approved IS/MND to be prepared when minor technical changes or additions are necessary and if the Addendum does not meet any of the requirements stated in Section 15162 for the preparation of supplemental EIR or negative declaration. The Environmental Review section of this Staff Report, presented subsequently, sets forth the detailed requirements of Section 15162 and explains how the conditions which would require the preparation of a CEQA document other than an Addendum are not present in this case.

The proposed Modification No. 1 to CUP No. 19-01 provides for minor changes to the Chestnut Solar Project to allow for an increased number of battery storage units, a change in location of a project operations center within the approved project footprint, and the addition of a microwave communications tower within the project operations center. As mentioned the approved site boundaries would not change and the solar generation would remain unchanged at 150 MW. The internal design of the solar facilities in the project would not change except for the removal of planned solar arrays within the site for the relocated project operations center, and the addition of an equivalent area of arrays on the formerly planned site of the project operations center. The solar arrays would consist of horizontal trackers oriented north to south, with inverters and transformers dispersed throughout and with the same grid pattern of internal driveways. No substantial changes to the Project infrastructure, construction, maintenance, or use as described in the approved IS/MND would occur, except for a minor increase in construction activity associated with the additional proposed battery units and the proposed communications tower. The modified Project will remain consistent with the approved CUP and will continue to be subject to the same Conditions of Approval and Mitigation Measures as previously approved by the County Planning Commission, except the language of some Mitigation Measures has been slightly revised and updated for consistency with current County standards of practice.



The modified Project would not result in any effects to environmental resources that are more severe than those described in the approved IS/MND. All Mitigation Measures and Conditions associated with the original Project would be applied to the modified Project. As is the case with the approved Project, the modified Project would have a less-than-significant impact with the implementation of the approved mitigation identified for agricultural resources, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, transportation, and tribal cultural resources. As is the case with the approved Project, the modified Project would have less-than-significant impact on aesthetics, forestry resources, air quality, energy, greenhouse gas emissions, land use and planning, mineral resources, noise, population and housing, public services, recreation, utilities and service systems, and wildfire. As required by CEQA Guidelines Section 15162, the County has evaluated circumstances surrounding each of these environmental topics in Addendum No. 1 to the IS/MND on Modification No. 1 to CUP No. 19-01. The Mitigation Monitoring and Reporting Program (MMRP), as modified, is attached to Planning Commission Resolution No. 21-03 as Exhibit “A.”

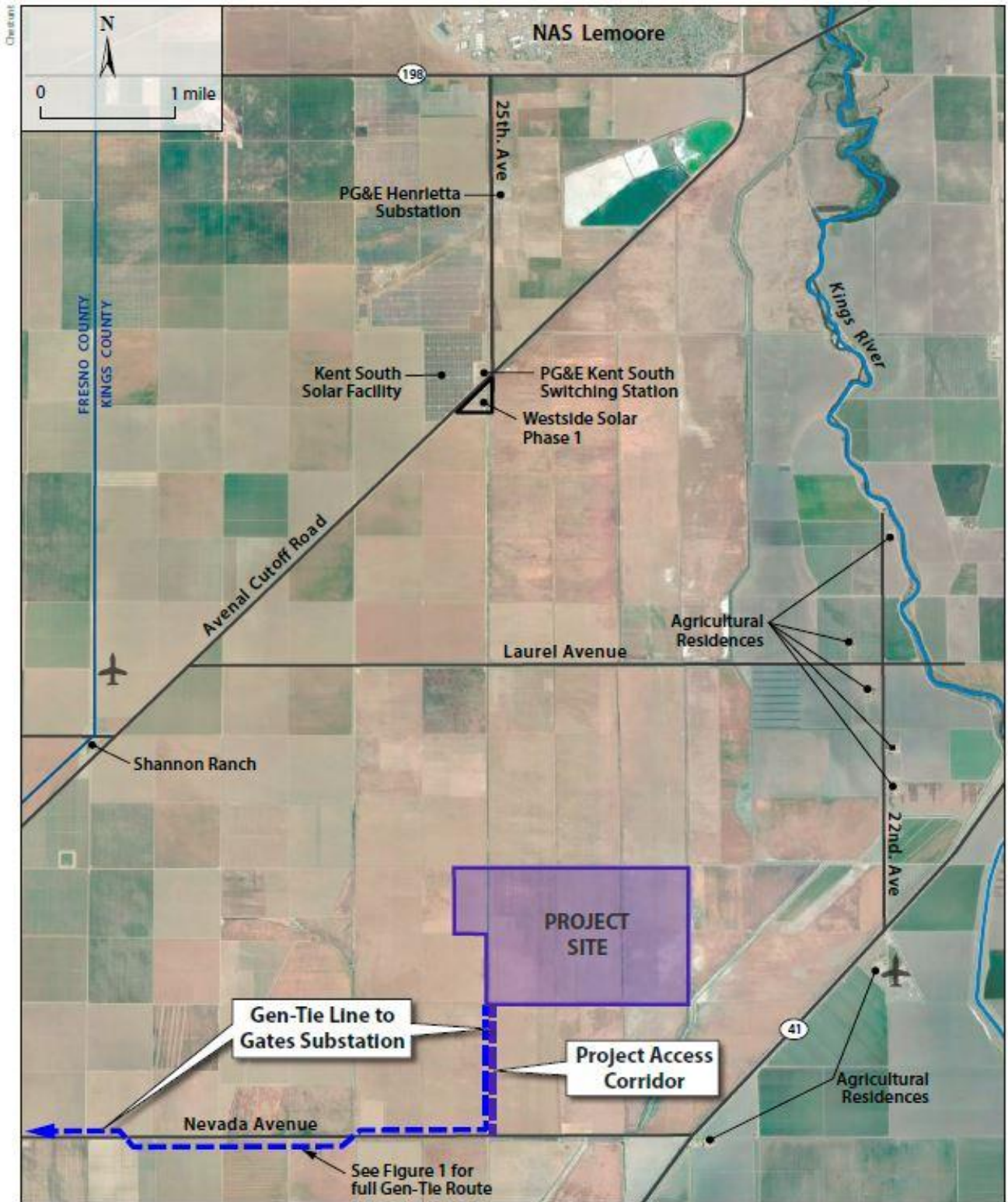
**CURRENT USE OF SITE:**

The Chestnut Solar Project site is currently used for the cultivation of winter wheat during the wet season and is typically left fallow during the dry season. Existing easements on the Project site are associated with existing water lines, and existing electrical distribution lines. A portion of the existing PG&E 70-kV subtransmission line runs through a portion project site in a north-south direction along the west side the 25<sup>th</sup> Avenue alignment. The 230-kV Gen-Tie Line which will serve the Chestnut Solar Project has been largely constructed with all of the monopoles installed and conductors strung. A small switchyard for the Gen-Tie is currently under construction near the southern site boundary adjacent to 25<sup>th</sup> Avenue. The Gen-Tie Line and switchyard will become operational in the latter half of 2020 in order to convey solar generation from the Aquamarine Solar Project which is currently under construction to the north.

**LAND USE**

**SURROUNDING SITE:**

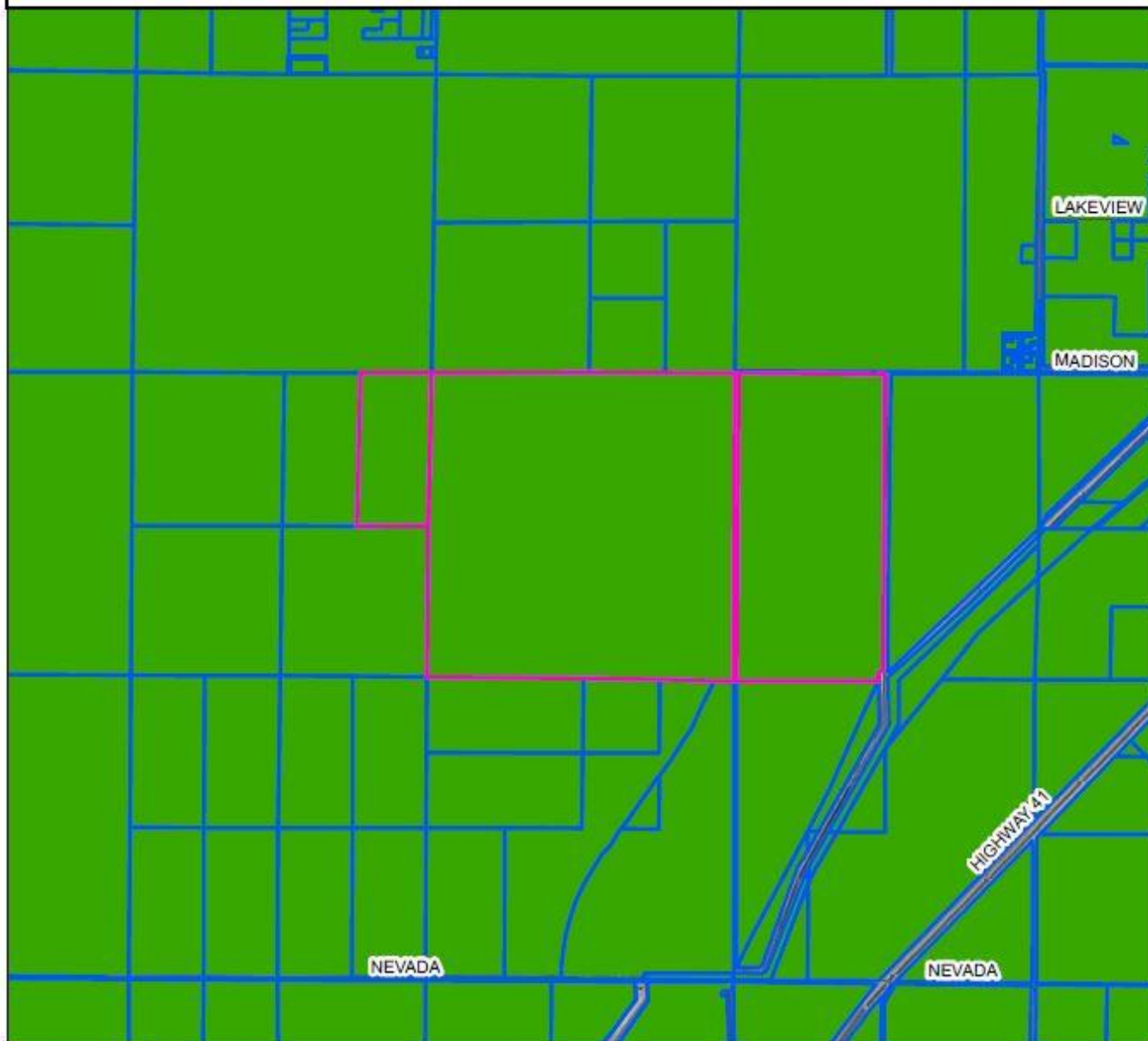
At the time the Chestnut Solar Project CUP was approved in 2019, the lands surrounding the project site were almost entirely in agricultural use. These surrounding lands have been subject to substantial changes since 2019. The Mustang Two and American Kings solar projects, located 2.5 and 4.0 miles to the north, were completed in early 2021. The Slate solar project, located 2.0 miles northeast, was approved in late 2019 and began construction in early 2021. The Aquamarine solar project, located 0.5 mile north, was approved in 2019 and is currently under construction. Immediately to the north, the Solar Blue Project was approved in 2019 and is scheduled for construction in early 2022.



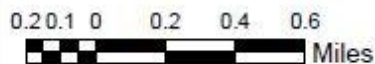
Source: Google Earth, 2018

Project Vicinity

Site Location Map For  
 Conditional Use Permit No. 19-01  
 (Westlands Solar - Chestnut)

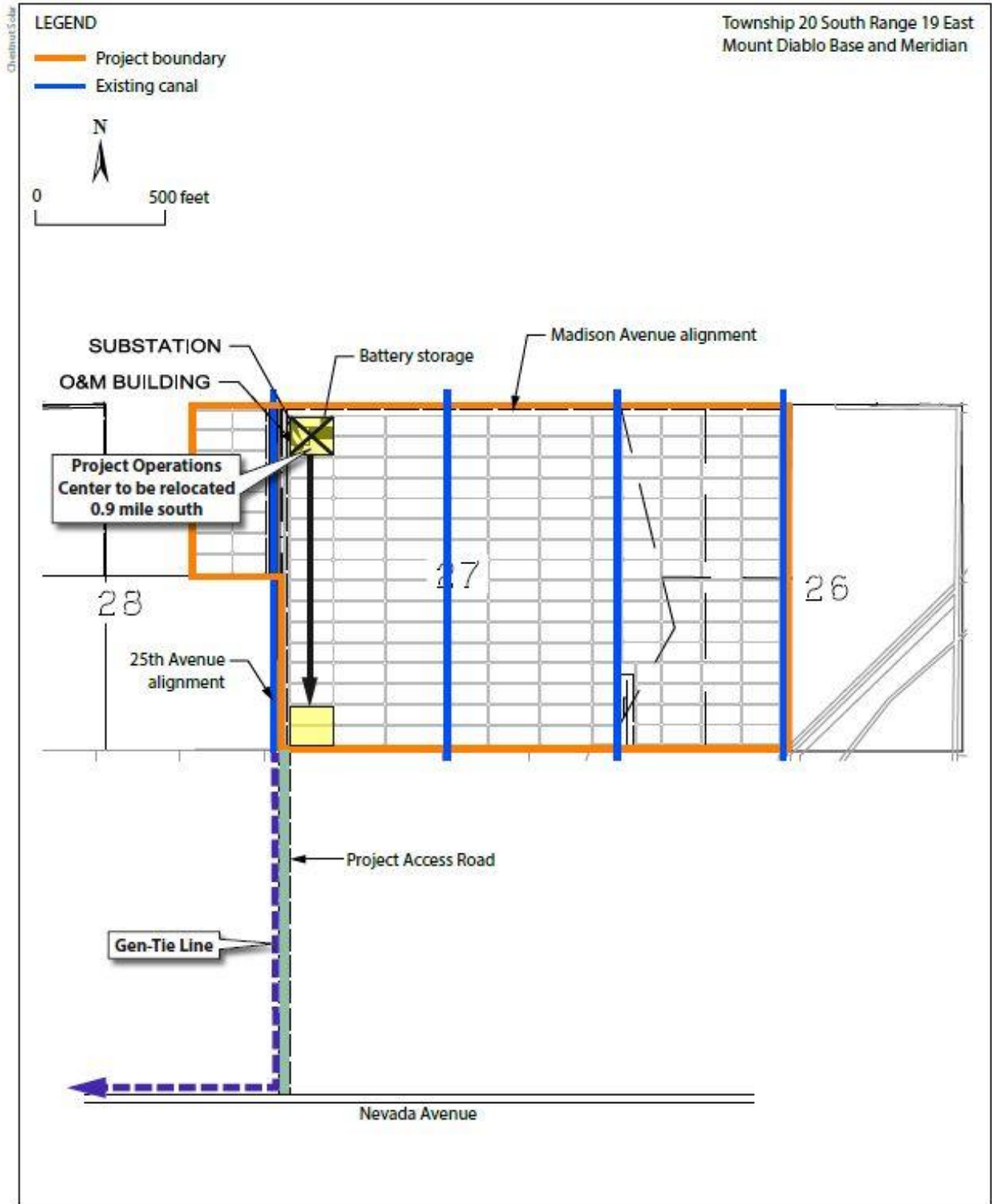


Map Prepared By:  
 Kao Nou Yang  
 October 2, 2019  
 Kings County Community Development Agency  
 1400 W. Lacey Boulevard, Hanford CA 93230 (559) 852-2670



LEGEND					
Kings County Zoning Designation					
AG20	CH	IL	R-1-12	RM-3	<b>Circulation</b> Minor Road Minor Arterial Interstate Highway Collector Arterial
AG40	CN	MU	R-1-20	RRA	
AL10	CR	MU-D	R-1-6	RRE	
AX	CS	NRC	R-1-8	T	
CC	CT	OS	RM-1.5		
	BH	PF	RM-2		





Source: dk Engineering; Stellavise

Overall Site Plan



**ENVIRONMENTAL REVIEW:**

The original IS/MND was prepared for CUP 19-01 in compliance with the *California Environmental Quality Act (CEQA)* and was adopted by the Planning Commission on October 7, 2019. The IS/MND concluded that any potentially significant adverse impacts associated with the Chestnut Solar Project would be mitigated to less-than-significant level by implementing the mitigation measures identified in the IS/MND. The identified Mitigation Measures (MMs) are carried out through implementation of the Mitigation Monitoring and Reporting Program (MMRP) contained in “Exhibit A” of the Planning Commission’s approval resolution (No. 19-03).

The State CEQA Guidelines (Section 15164) allows for an Addendum to an approved IS/MND to be prepared when minor technical changes or additions are necessary and if the project does not meet any of the requirements stated in Section 15162 which would require preparation of subsequent EIR or negative declaration. The County has determined that none of the conditions described in Section 15162, calling for the preparation of such an alternative CEQA document, have occurred as described below:

1. No 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. No 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. No 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 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 or negative declaration;
  - 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 or negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Addendum No. 1 to the IS/MND has been prepared to analyze potential environmental impacts associated with proposed Modification No. 1 to CUP 19-01. No potential impacts were identified beyond those identified in the approved IS/MND. The proposed project may have significant adverse impacts on the environment; however, those impacts can be mitigated to an insignificant level by implementing the mitigation measures identified in the Mitigation Monitoring and Reporting Plan (MMRP) adopted by the Planning Commission on October 7, 2019, as modified in the revised MMRP contained in Exhibit “A” of Planning Commission Resolution No. 21-03.

As stated in CEQA Guidelines Section 15164(c), an addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration. Accordingly, Addendum No. 1 to the IS/MND for the proposed Modification No. 1 to CUP 19-01 was not circulated for public review.

**PROJECT REVIEW:**

Original CUP Application

January 11, 2019	Application submitted
August 12, 2019	Application certified complete
August 16, 2019	Begin 30-day environmental review period for IS/MND
September 16, 2019	30-day environmental review period ends
October 7, 2019	Planning Commission hearing

Application for Modification No. 1 to CUP 19-01

May 4, 2021	Application submitted
May 12, 2021	Application certified complete
June 7, 2021	Planning Commission hearing

**STAFF ANALYSIS:**

In order to approve this permit modification, the Commission is required to make the following findings pursuant to Section 1707 of the *Kings County Development Code*:

1. The proposed use is consistent with the General Plan.
2. The approval of the conditional use permit for the proposed use is in compliance with the requirements of the *California Environmental Quality Act (CEQA)*.
3. There will be no potential significant negative effects upon environmental quality and natural resources that could not be eliminated or avoided through mitigation or monitoring or (b) there will not be potential significant negative effects upon environmental quality and natural resources that could not be mitigated to the extent feasible, and a Statement of Overriding Considerations is adopted explaining why the benefits of the project outweigh the impacts that cannot be mitigated to a less than significant level.
4. The proposed conditional use complies with all applicable standards and provisions of this Development Code and the purposes of the district in which the site is located.
5. The design, location, size and operating characteristics of the proposed conditional use and the conditions under which it would be operated or maintained will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to the public health, safety, or welfare, or materially injurious to other permitted uses, properties, or improvements in the vicinity.
6. That no process, equipment or materials shall be used which, are found by the Planning Commission, to be substantially injurious to persons, property, crops, or livestock in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water carried wastes, noise, vibration, illumination, glare or unsightliness or to involve any undue risk of fire or explosion.

7. That no waste material shall be discharged into a public or private sewage disposal system except in compliance with the regulations of the owner of the system.
8. That all uses shall comply with the emission standards of the San Joaquin Valley Air Pollution Control District.
9. The site plan includes all applicable information as described in Article 16, Section 1602.A.5.

All findings and adopted conditions of approval in Resolution No. 19-03 concerning the approval of the original Chestnut Solar Project under CUP No. 19-01 remain in full force and effect, except for minor modifications.

With regard to proposed Modification No. 1 to CUP 19-01, staff comments that:

1. The proposed use is consistent with the General Plan.

The proposal conforms with the policies of the Kings County General Plan, specifically:

- A. Figure LU-11 of the *2035 Kings County General Plan* designates this site as Exclusive Agriculture 40-Acre Minimum (eastern 320 acres), and General Agriculture 40-Acre Minimum (western 720 acres).
- B. Page LU-13, Section III.A.1. of the “Land Use Element” of the *2035 Kings County General Plan* states that agricultural land use designations account for a vast majority of the County’s land use. Included within this land use type are four agricultural type land use designations, Limited Agriculture, General agriculture 20-Acre Minimum, General Agriculture 40-Acre Minimum, and Exclusive Agriculture. The major differences between the four Agriculture designations relate to minimum parcel size, animal keeping, and agricultural service business. These designations preserve land best suited for agriculture, protect land from premature conversion, prevent encroachment of incompatible uses, and establish intensity of agricultural uses in manner that remains compatible with other uses within the County. The development of agricultural services and produce processing facilities within the Agricultural areas of the County shall develop to County Standards.
- C. Page LU-13, Section III.A.1 of the “Land Use Element” of the *2035 Kings County General Plan* states that the AX designation is applied around NAS Lemoore and its flight paths to reduce potential conflicts between military jet aircraft operations and surrounding land uses. Areas subject to potential military aircraft noise and safety issues are designated AX to reduce the number of residences and to preserve priority agricultural lands from encroachment by incompatible uses.
- D. Page LU-27, Section IV.B of the “Land Use Element” of the *2035 Kings County General Plan* states that Agricultural Open Space is the most extensive environmental category that displays the rural agricultural nature of the county. The agricultural land use designations (Limited Agriculture, General Agriculture 20 Acres, General Agriculture 40 Acres, and Exclusive Agriculture) are used to define distinct areas of agricultural intensity and protect agricultural land from the encroachment of incompatible uses. Limited and General Agriculture designated areas provide appropriate locations for agricultural support businesses, while Exclusive Agriculture provides a safety and noise buffer around the Naval Air Station. The physical development of agricultural properties is regulated and implemented by the Zoning Ordinance,

in which the zone districts have the same designations: Limited Agriculture (AL-10), General Agriculture (AG-20 and AG-40), and Exclusive Agriculture (AX) are used. The minimum parcel size in the Exclusive Agriculture area is 40 acres. (Note: *Zoning Ordinance No. 269.69* was repealed and replaced when *Development Code No. 668* was adopted on March 3, 2015, and became effective on April 2, 2015.)

- E. Page LU-38, LU Goal B7 of the “Land Use Element” of the *2035 Kings County General Plan* states that community benefiting non-agricultural uses remain compatible within the County’s Agriculture Open Space area, and are supported for their continued operation and existence.
- F. Page LU-38, LU Policy B7.1.3 of the “Land Use Element” of the *2035 Kings County General Plan* states power generation facilities for commercial markets shall be allowed and regulated through the Conditional Use Permit approval process, and include thermal, wind, and solar photovoltaic electrical generating facilities that produce power. Hydroelectric and cogeneration facilities shall also be regulated as conditional uses except as follows (Kings County 2010):
  - (1) The installation of hydroelectric generating facilities, with a capacity of 5 MWs or less, in connection with existing dams, canals, and pipelines shall be regulated as permitted uses, subject to issuance of a site plan review that is categorically exempt pursuant to Section 15328 of the CEQA Guidelines.
  - (2) The installation of cogeneration equipment with a capacity of 50 MWs or less at existing facilities shall be regulated as permitted uses, subject to issuance of a site plan review which is categorically exempt pursuant to Section 15329 of the CEQA Guidelines.
- G. Page RC-50, RC Objective G1.2 of the “Resource Conservation Element” of the *2035 Kings County General Plan* seeks to promote the development of sustainable and renewable alternative energy sources, including wind, solar, hydroelectric and biomass energy.
- H. Page RC-50, RC Policy G1.2.2 of the “Resource Conservation Element” of the *2035 Kings County General Plan* encourages and supports efforts to develop commercial alternative energy sources in lower priority agricultural lands within Kings County, when appropriately sited.
- I. Page RC-50, RC Policy G1.2.4 of the “Resource Conservation Element” of the *2035 Kings County General Plan* establishes the requirement to coordinate the siting of alternative energy facilities within the Exclusive Agriculture (AX) Zone District with the Naval Air Station Lemoore to ensure such facilities will not have the potential to create a hazard for aircraft (e.g. reflective solar panels).

As discussed in the original IS/MND and in the Addendum to the IS/MND, the PV solar panels installed at the Westside Solar Project site would not produce light or glare that would pose a hazard to flight operations at NAS Lemoore.
- J. Page RC-51, RC Policy G1.2.7 of the “Resource Conservation Element” of the *2035 Kings County General Plan* requires commercial solar and wind energy systems to be reviewed as a conditional use permit pursuant to the procedures of the Kings County Zoning Ordinance. It should be noted that the *Kings County Zoning Ordinance* has been replaced by the *Kings*



*County Development Code (Ordinance No. 668)*, which was adopted by the Kings County Board of Supervisors on March 3, 2015, and became effective on April 2, 2015.

2. The approval of the conditional use permit for the proposed use is in compliance with the requirements of the *California Environmental Quality Act (CEQA)*.
  - A. Approval of the proposed Modification No. 1 to Conditional Use Permit No. 19-01 (Westlands Chestnut Solar, LLC) is in compliance with the requirements of the *California Environmental Quality Act (CEQA)*. The proposed use should not be detrimental to public health and safety, nor materially injurious to properties in the vicinity. An addendum (Addendum No. 1) to the original Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for this proposed project modification. The proposed project modification may have significant adverse impacts on the environment; however, those impacts can be mitigated to an insignificant level by implementing the Mitigation Monitoring & Reporting Program (MMRP), as modified, attached to the Planning Commission Resolution for this project modification as Exhibit “A” to Resolution No. 21-03. The Addendum to the IS/MND reflects the Planning Commission’s independent judgment and analysis.

As provided by CEQA Guidelines Section 15168, the subject IS/MND on the Chestnut Solar Project is a tiered CEQA document which was prepared as a subsequent CEQA document to the Program EIR (PEIR) on the Westlands Solar Park (WSP) Master Plan and Gen-Tie Corridors Plan (SCH No. 2013031043) which was certified under CEQA by the Westlands Water District (WWD) Board of Directors on January 16, 2018. The PEIR addressed the potential environmental impacts associated with future solar development within the WSP Master Plan area, and also addressed the potential impacts associated with the planned gen-tie corridor extending from the WSP to the Gates substation to the west, which is required for the transmission of WSP solar generation to the State electrical grid. The PEIR concluded that all of the potential impacts associated with solar development under the WSP Master Plan, along with the implementation of the Gen-Tie Corridors Plan, could be avoided or reduced to less-than-significant levels through the implementation of mitigation measures identified in the PEIR. As such, no significant and unavoidable impacts were identified in the PEIR, and no Statement of Overriding Considerations was required for approval of the WSP Master Plan and Gen-Tie Corridors Plan by WWD.

The PEIR was prepared in close coordination with the staff of the Kings County Community Development Agency (CDA), in recognition of the County’s role as the Responsible Agency for the approval of Conditional Use Permits (CUPs) for individual solar projects to be developed within the WSP Master Plan area. (Under CEQA Guidelines Section 15052, a Responsible Agency may assume the role of Lead Agency if it finds that further environmental documentation is required under CEQA in conjunction with a subsequent project-specific approval within its purview.) The PEIR incorporated all revisions requested by the Kings County CDA with the express purpose of making the PEIR consistent with County policies and practices, and thus facilitating the ability of the Kings County Planning Commission to adopt subsequent CEQA documents (Supplemental EIRs or MNDs) that would be tiered from the certified PEIR.

The Chestnut Solar Project comprises a specific solar project under the WSP Master Plan and is consistent with the Master Plan. Pursuant to CEQA Guidelines Section 15150, the subject IS/MND incorporates by reference the certified PEIR, which can be electronically accessed at <https://wwd.ca.gov/news-and-reports/environmental-docs/>. The Kings County Planning Commission has duly considered the contents of the certified PEIR and found it to provide complete program-level environmental review for the Chestnut Solar Project, and has found the subject IS/MND to be consistent with the certified PEIR.

The proposed project may have significant adverse impacts on the environment; however, those impacts can be mitigated to an insignificant level by implementing the Mitigation Monitoring & Reporting Program (MMRP), as modified, attached to the Planning Commission Resolution for this project as Exhibit “A.” The IS/MND reflects the Planning Commission’s independent judgment and analysis.

3. There will be no potential significant negative effects upon environmental quality and natural resources that could not be eliminated or avoided through mitigation or monitoring or there will not be potential significant negative effects upon environmental quality and natural resources that could not be mitigated to the extent feasible, and a Statement of Overriding Considerations is adopted explaining why the benefits of the project outweigh the impacts that cannot be mitigated to a less than significant level.
  - A. The IS/MND did not identify any potentially significant environmental effects that cannot be mitigated to a less-than-significant level. The Mitigation Monitoring & Reporting Program (MMRP), as modified, identifies specific project impacts, how they will be mitigated, and which entity is responsible for ensuring their completion. The MMRP is included as Exhibit “A” to Resolution No. 21-03.
4. The proposed conditional use complies with all applicable standards and provisions of the Kings County Development Code and the purposes of the district in which the site is located.
  - A. Article 4, Section 407, Table 4-1, lists commercial solar photovoltaic electrical generating facilities as a conditional use within the Exclusive Agriculture 40-Acre and General Agriculture 40-Acre Zoning Districts, subject to Planning Commission approval.
  - B. Article 10, Section 1004.A of the Development Code states that the Agriculture Overlay Zone (AOZ) is applied to properties designated as Exclusive Agriculture (AX) as shown on Figure LU-11 of the 2035 Kings County General Plan and currently zoned either AG-20 or AG-40. The AOZ provides development Standards and Regulations to implement the Kings County General Plan and address related public health and safety concerns.
  - C. The AOZ is intended to provide added restrictions that are limited in scope and serve to modify the base zone district requirements. The specific purposes of the AOZ are:
    1. Reduce potential land use conflicts around Naval Air Station Lemoore, concerning noise and safety due to the operation of military jet aircraft.
    2. Enhance land use compatibility around Naval Air Station Lemoore by accommodating agriculture, aircraft, and residential uses in a compatible manner that maintains economic

and national defense sustainability while also allowing residents opportunities to improve their quality of life.

3. Preserve lands best suited for agricultural uses and serving as a military base safety buffer from encroachment by incompatible uses.
  4. Apply to AX expansion areas as adopted by the Board of Supervisors on January 2010 and any changes and/or amendments of such expansion areas, and implement the policies and provisions of the Kings County General Plan.
  5. The AOZ shall be shown on the Zoning Map by adding the designator "AO" to the base district designation. The AOZ will be applied to all properties designated as Exclusive Agriculture as shown on Figure LU-11 of the of the 2035 Kings County General Plan and currently zoned either AG-20 or AG-40.
  6. The provisions of this chapter shall apply to all parcels of land located within the designated boundaries of the overlay district as illustrated on maps contained on the County zoning map. In the event of a conflict with the regulations of the underlying base zoning district and the overlay zoning district, the provisions of the overlay zoning district shall apply. Where the overlay zoning district is not defined, the regulations of other sections of this title shall apply.
- D. Article 11, Section 1112, Alternative Energy Systems, identifies the following standards for commercial solar electric generating systems in Agriculture Zoning Districts:
1. The proposed site shall be located in an area a designated as either “Very Low Priority,” “Low Priority,” or “Low-Medium Priority” land according to Figure RC-13 Priority Agricultural Land (2035 Kings County General Plan, Resource Conservation Element, Page RC-20). “Medium Priority” land may be considered when comparable agricultural operations are integrated, the standard mitigation requirement is applied, or combination thereof.
    - a. As shown Figure RC–13 *Priority Agricultural Land* of the 2035 Kings County General Plan, the project site is shown as consisting entirely of Low Priority Agricultural Land. The proposed project is consistent with this requirement of the Code.
  2. The proposed site shall be located within 1 mile of an existing 60 KV or higher utility electrical line. Small community commercial solar projects (less than or equal to 3 MW) may be located more than 1 mile from a 60 kV or higher transmission line subject to the following findings:
    - a. The project site is located on low or very low priority farmland.
    - b. The project site is not restricted by a Williamson Act or Farmland Security Zone contract.
    - c. The project will connect to existing utility infrastructure without building new power lines.

- d. The project will not result in any additional easements on agricultural land, other than access easements or easements within the public Right-of-Way.
  - (1) The proposed project does not classify as a small community commercial project (less than or equal to 3 MW); therefore, the project shall be located within 1 mile of a 60 kV or greater transmission line. An existing 70 KV utility transmission line passes through the project site alongside the 25<sup>th</sup> Avenue alignment. The proposed project is consistent with this requirement of the Development Code.
3. Agricultural mitigation shall be proposed for every acre of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance converted for a commercial solar facility. The agricultural mitigation shall preserve at a ratio of 1:1 an equal amount of agricultural acreage of equal or greater quality in a manner acceptable to the County for the life of the project. Agricultural mitigation on land designated “Medium-High” or higher priority land shall preserve an equivalent amount of agricultural acreage at a ratio of 2:1.
  - a. All of the lands on the project site are classified as Grazing Land in the “Kings County Important Farmlands 2016” (Map), published by the California Department of Conservation’s Farmland Mapping and Monitoring Program (FMMP). The project would not result in temporary or permanent conversion of the Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, and no portion of the project site is designated as Medium-High or higher priority Lands in Figure RC- 13 *Priority Agricultural Land* of the 2035 Kings County General Plan. Therefore, no mitigation is required and this finding would be satisfied.
4. The project shall include a reclamation plan and financial assurance acceptable to the County that ensures the return of the land to a farmable state after completion of the project life, and retains surface water rights.
  - a. A Soil Reclamation Plan, along with requisite financial assurances, are identified for this project in MM AG-2 and MM AG-3. With implementation of MM AG-2 and MM AG-3, this finding would be satisfied.
5. The project shall include a pest management plan and weed abatement plan to protect adjacent farmland from nuisances and disruption.
  - a. A pest management plan and weed abatement plan are conditions of approval. See Condition No. 16 below.
6. The project shall space internal access driveways per Kings County Fire Department standards.
  - a. Prior to issuance of the building permit, detailed site plans showing internal access driveways shall be prepared and provided to the Planning Division and Fire Department. The access driveways shall be maintained and completely surround the solar panels to allow access from any side or end. Access driveways shall not be less than 20 feet wide and shall provide vertical clearance of not less than 13 feet 6 inches.



Detailed plans shall be provided for review and the applicant shall meet with the Fire Marshal in a timely manner upon request for clarification of any issues. Any deviation from these standards requires approval through the Fire Marshal. With implementation of the Conditions for the Conditional Use Permit, this finding would be satisfied.

7. The project shall include a solid waste management plan for site maintenance and disposal of trash and debris.
  - a. The applicant shall implement a Solid Waste Management Plan for this project. The non-hazardous waste generated during construction and operation shall be segregated on-site for recycling or disposal at a Class III landfill. Hazardous wastes generated during project construction and operation shall be either recycled or disposed of at a Class I disposal facility, as required. With implementation of Condition No. 17 listed below, this finding would be satisfied.
8. The project site shall not be located on Williamson Act or Farmland Security Zone contracted land, unless it meets the principles of compatibility under Government Code Section 51238.1(a). Otherwise, the contract shall be proposed for cancellation.
  - a. The easterly 320 acres of the project site are recorded by the Kings County Assessor's Office as being subject to a Farmland Security Zone contract. While the remaining 720 acres of the project site are not currently under any Williamson Act contracts, it is possible that these lands may be required to be re-enrolled under the Williamson Act pursuant to Government Code Section 51295. Therefore, all of the lands within the Chestnut Solar Project site are considered to be subject to Williamson Act contracts for purposes of proposed CUP. The project applicant proposes to avoid conflict with the Williamson Act and Farmland Security Zone contracts by maintaining a use on the entire site that meets the principles of compatibility pursuant to Gov. Code Section 51238.1(a) and by maintaining reasonably foreseeable agricultural operations on the project site. MM AG-1, MM AG-2, and MM-AG-3 shall be implemented so that agricultural uses are maintained during operation of the project and that the agricultural viability of the contracted parcels is maintained after decommissioning. MM AG-1 requires preparation of an Agricultural Management Plan which would outline the ongoing agricultural productivity for the life of the project. The Plan shall address measures in the event grazing is discontinued, which include canceling the existing Williamson Act and Farmland Security Zone Contracts.
5. The design, location, size and operating characteristics of the proposed conditional use and the conditions under which it would be operated or maintained will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to the public health, safety, or welfare, or materially injurious to other permitted uses, properties or improvements in the vicinity.
  - A. The approved project and the proposed project modification were and are subject to analysis pursuant to the *California Environmental Quality Act (CEQA)* and the CEQA Guidelines. The IS/MND on the original Chestnut Solar Project was prepared and circulated for a 30-day public comment period. Addendum No. 1 to the IS/MND was prepared to address the potential

impacts associated with the proposed project modifications. With incorporation of mitigation measures, the approved project, as modified, will not result in any of the significant effects which are objectionable or detrimental to the public health, safety, or welfare, or materially injurious to other permitted uses, properties or improvements in the vicinity. In addition to mitigation measures adopted as part of the Mitigation Monitoring & Reporting Program (MMRP), other conditions of approval, including implementation of zoning, public works, public health, and engineering and design standards will ensure that operation of the proposed use is not a nuisance.

6. That no process, equipment or materials shall be used which, are found by the Planning Commission, to be substantially injurious to persons, property, crops, or livestock in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water carried wastes, noise, vibration, illumination, glare or unsightliness or to involve any undue risk of fire or explosion.
  - A. The modified solar project will not be substantially injurious to persons, property, crops, or livestock in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water carried wastes, noise, vibration, illumination, glare or unsightliness or to involve any undue risk of fire or explosion. The proposed modified project would involve the construction, operation, maintenance and decommissioning of a solar photovoltaic power generating facility on approximately 1,040 acres of land. Hazardous materials would be handled in compliance with applicable laws and regulations regarding transport, handling, disposal, and storage. The modified Project would comply with federal and state regulations regarding the use, handling, disposal, recycling and reuse of PV cells. Lighting will be oriented and/or shielded to the interior of the site to prevent spillage onto nearby properties and rights-of-way. Solar glare would not impact flight paths or the air traffic control station. In addition, compliance with international, federal, state, and local regulations would ensure that there is a low potential for fires. The previously approved IS/MND and Addendum No. 1 to the IS/MND did not identify any potentially significant environmental effects that cannot be mitigated to a less-than-significant level. The Mitigation Monitoring & Reporting Program (MMRP), as modified, identifies specific project impacts, how they will be mitigated, and which entity is responsible for ensuring their completion. The MMRP is included as Exhibit "A" to Resolution No. 21-03. Other conditions of approval, including implementation of zoning, public works, public health, and engineering and design standards will ensure that operation of the proposed use is not a nuisance. Parking areas and driveways will be surfaced and maintained per County standards (see Planning Division Requirements 8, 9 and 10 below). The combination of site design, mitigation measures, and other conditions of approval will result in minimization or elimination of injurious effects.
  
7. That no waste material shall be discharged into a public or private sewage disposal system except in compliance with the regulations of the owner of the system.
  - A. The approved project would include the installation of a septic tank and drain field system for the wastewater from the O&M Building that could be constructed. The septic system would require a permit from the Kings County Community Development Agency. Onsite septic system facilities would be installed in compliance with the California Building Code and Kings County Plumbing Code (Ordinance No. 567.4 Section 5-82). The system shall be designed by a qualified engineer (see Building Division Requirement No. 13 below).

8. That all uses shall comply with the emission standards of the San Joaquin Valley Air Pollution Control District.
  - A. The modified project, as described in the original IS/MND and Addendum No. 1 to the IS/MND, will be required to comply with all applicable regulations of the SJVAPCD, including but not limited to Rules 8011 through 8081 (Fugitive Dust Prohibitions) and Rule 9510 (Indirect Source Review). The construction resulting from the modified project could temporarily increase emissions of PM<sub>10</sub> and thus a condition of approval will require that the project shall comply with SJVAPCD Regulation VIII.
9. The site plan includes all applicable information as described in Article 16, Section 1602.A.5.
  - A. Article 16, Section 1602.A.5 requires that site plans for commercial and industrial project be professionally drawn to a scale large enough to show all details clearly with full dimension. Site plans must include detail of the following: lot dimensions; setback measurements; all buildings and structures; yards and space between buildings; all walls, fences, and gates; off-street parking; property access; signs; loading; lighting; street dedications and improvements; landscaping; fire hydrants; on-site drainage; and any other data as required. The site plans for the original project and for the modified project meet all of the criteria required by Section 1602.A.5, such that the locations, sizes, and functions of all existing and proposed features can be ascertained.

**STATEMENT OF FINDINGS OF CONSISTENCY:**

**1. LAND CONSERVATION (WILLIAMSON) ACT FINDINGS:**

- A. Within the 320-acre easterly portion of the project site, there is one parcel that is subject to Farmland Security Zone contract, and the remainder of the project site is considered to be subject to Williamson Act contracts pursuant to Government Code Section 51295. On November 26, 2013, Kings County adopted Resolution No. 13-058 recognizing that certain land parcels within the County south of SR-198 and west of SR-41 (e.g., where the Project site is located) that are under Williamson Act (or Farmland Security Zone) contracts are limited in agricultural production due to reduced surface water deliveries, poor groundwater quality and severe groundwater overdrafts, impaired soil conditions, and regulatory burdens. Further, the Resolution provides that solar uses (solar farming) with dry farm seasonal grazing or similar commercial agricultural activity may be compatible uses under the Williamson Act as long as the applicant for such a project provides a soil reclamation plan and financial assurances, and if a finding can be made, based upon substantial evidence, that the proposed concomitant commercial agricultural operation is a reasonably foreseeable use of the land (taking into account surface water availability, groundwater quality and availability, and soil conditions).

The soil and water analysis reports prepared for neighboring project sites with the same soil types and conditions as the project site state that the native soils of project area have naturally high salt levels, and have been exacerbated by poor natural drainage. The short supply of high quality imported water limits the amount of surface water that can be applied to pre-irrigate the soil to leach out some salts. Long term soil salinity conditions are expected to increase due to lack of a

subsurface drainage system and a sustainable leachate disposal outlet. This fulfills the requirements of Resolution No. 13-058 in demonstrating that poor soil and water quality, and insufficient supplies of surface and groundwater currently exist and that the proposed concomitant commercial agricultural operation (solar facility and dry-farm seasonal sheep grazing) would be a reasonably foreseeable use of the land at the project site. Consequently, because the project site is located within an area covered under Resolution No. 13-058, has adequately demonstrated that poor soil and water quality exist, water supply is insufficient to support agricultural crops, and because the project would allow for dry grazing and would require the preparation of a Soil Reclamation Plan and an updated Engineer's Cost Estimate for financial assurances every 5 years, there would be no potential conflict or conversion of land under Williamson Act (or Farmland Security Zone) contracts.

**2. FLOOD PLAIN FINDINGS:**

- A. The project site is within Other Areas Zone X as shown on the National Flood Insurance Program, Flood Insurance Rate Map (FIRM), Map Number 06031C0300C, dated June 16, 2009. There are no development restrictions associated with Area of Minimal Flood Hazard Zone X since these are areas determined to be outside the 0.2 percent annual chance floodplain.

**3. AIRPORT COMPATIBILITY ZONE FINDINGS:**

- A. The project site is not located within an Airport Compatibility Zone.

**RECOMMENDATIONS:**

It is recommended that the Commission approve the proposed Modification No. 1 to Conditional Use Permit No. 19-01 as described above and adopt Resolution No. 21-03. Approval of this Resolution will:

1. Find that the proposed Modification No. 1 to Conditional Use Permit No. 19-01 will not have significant adverse impacts on the environment and approve Addendum No. 1 to the *Mitigated Negative Declaration*.
2. Find that Planning Commission Resolution No. 19-03 concerning CUP No. 19-01 remains in full force and effect.
3. Approve Modification No. 1 to CUP No. 19-01 with specified conditions of approval.

This permit modification shall become effective upon the expiration of eight (8) days following the date on which the permit modification was granted unless the Board of Supervisors shall act to review the decision of the Planning Commission.

A Conditional Use Permit shall lapse and shall become null and void three (3) years following the date on which the Conditional Use Permit became effective, unless prior to the expiration of three (3) years a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the site which was subject of the Conditional Use Permit application. A Conditional Use Permit may be renewed for additional periods of time, if an application (by letter) for



renewal of the Conditional Use Permit is filed with the Planning Commission prior to the permit's expiration date.

For the information of the applicant, compliance with other adopted rules and regulations of any local or state regulatory agency shall be required by the Planning Commission. This includes but is not limited to the following:

**KINGS COUNTY COMMUNITY DEVELOPMENT AGENCY – PLANNING DIVISION** Contact Chuck Kinney of the Kings County Community Development Agency – Planning Division at (559) 852-2674 regarding the following requirements:

1. All proposals of the applicant shall be conditions of approval if not mentioned herein.
2. The site plan for the project is approved in concept. However, it is understood that during the actual design of the project that either of the following minor alterations to the site plan may be necessary: 1) structural alterations; and/or 2) alterations to the location of structures. Any minor alterations shall comply with the following requirements:
  - A. The site shall be developed in substantial compliance with the conceptually-approved site plan. Development of the site shall be considered substantially consistent with the approved conceptual site plan if any minor structural alteration is within ten (10) percent of the square footage shown on the conceptually approved site plan or up to a 2,500-square-foot increase in structural size, whichever is less, and the minor structural alteration complies with coverage standards.
  - B. A minor alteration of the location of a structure shall be considered substantially consistent with the approved conceptual site plan if the new location of the structure complies with all setback requirements for the zone district that the project site is located in.
  - C. Any minor alteration that would make it necessary to modify or change any condition of approval placed on the project would require resubmittal of the application to amend the approval of the Site Plan Review.
  - D. No expansion of use, regardless of size, which would increase the projected scale of operations beyond the scope and nature described in this Conditional Use Permit application, will be allowed. Any expansion that is a substantial change from the conceptually-approved site plan will require either an amendment to the approved Conditional Use Permit or a new zoning permit.
3. The development shall comply with all regulations of Development Code No. 668.15, with particular reference to the Exclusive Agricultural (AX) Zone District standards and the General Agricultural (AG-40) Zone District standards contained in Article 4, the Agricultural Overlay Zone standards listed in Article 10, and the standards listed for Conditional Use Permits contained in Article 17.
4. All signage must comply with Section 418.C of the *Kings County Development Code*. Signs shall be located outside of the public right-of-way and shall not be located within a traffic safety

visibility area if over three (3) feet in height. Unless a different setback is specified for a particular zone district, the minimum setback distance for all signs over three (3) feet in height shall be ten (10) feet from property lines.

5. Any exterior lighting shall be hooded so as to be directed only on-site. Pursuant to Section 418.E of the Kings County Development Code, exterior lighting shall be designed to be compatible with the architectural and landscape design of the project.
  - A. All new proposed uses shall preserve the existing nighttime environment by ensuring that the outdoor lighting for the use is so arranged and/or hooded as to reflect light away from adjoining properties.
  - B. New lighting that is part of residential, commercial, industrial, or recreational development shall be oriented away from sensitive uses, and shall be hooded, shielded, and located to direct light pools downward and prevent glare.
  - C. To achieve the desired lighting level for parking and pedestrian areas, the use of more short, low intensity fixtures is encouraged over the use of a few tall fixtures that illuminate large areas.
6. Pursuant to Section 418.F of the *Kings County Development Code*, all property owners and residents in Kings County are highly encouraged to participate in resource conservation efforts to help preserve and conserve dwindling natural resources. All property owners proposing new development within the agricultural zoning districts are encouraged to implement the following resource conservation measures, as applicable, as part of their development proposals.
  - A. Water Meters: The installation of water meters to encourage water conservation.
  - B. Stormwater Drainage: The integration of onsite stormwater drainage features such as small catch basins, rain gardens, and landscape depression basins into site plans to increase the stormwater detention.
  - C. Drought Tolerant Landscaping: The integration of drought tolerant landscaping and conservation fixtures with the structures to reduce the average per capita water use.
7. Off-Street parking shall be provided in accordance with Article 13, Table 13-1 of the *Kings County Development Code* and shall be installed in accordance with *Kings County Improvement Standards*. (Note: Accessible parking requirements are listed under Building Division Requirements 8 and 9 below.)
8. All drive approaches, parking areas, aisles, and driveways shall be provided prior to either: (1) initial occupancy of the site; or (2) the final inspection. (Note: The applicant is responsible for contacting the Building Division to request a final inspection of the structure prior to startup of the operation.)
9. Pursuant to Section 303.G of the *Kings County Improvement Standards* the parking area at the O&M building shall be surfaced and maintained so as to provide a durable, dustless surface.

Section 303.G and Drawing 3036 of the *Kings County Improvement Standards* requires two (2) inches of Type “B” Asphalt Concrete over four (4) inches of Class 2 aggregate base over six (6) inches of R-50 Native @ 95% compaction under “Heavy Use Conditions.” All aisles and driveways shall be surfaced and maintained so as to provide a durable, dustless surface pursuant to the “Rural Alternative.” Section 303.G. and Drawing 3036 of the *Kings County Improvement Standards* requires Cutback Asphalt over four (4) inches of Decomposed Granite under the “Rural Alternative.” (Note: The Kings County Planning Commission hereby reserves the right to require additional improvements to the parking area and driveway if at any time in the future the decomposed granite surface deteriorates and either a dust problem is created due vehicles driving on the decomposed granite surface, or a mud problem is created due to vehicles tracking mud onto County Roads.)

10. Accessible parking spaces shall be located so as to minimize the travel distance to the use's primary entrances for access. Required off street accessible parking spaces, and standards for those spaces, shall meet state standards.
11. Pursuant to Article 4, Section 418.B.5 of the *Kings County Development Code* the following are required for landscaping in Agricultural Zoning District:
  - A. In all Agricultural Zoning Districts, as stated in Article 15, all new construction and rehabilitated landscape projects installed after January 1, 2010 are subject to and shall comply with the “California Model Water Efficient Landscape Ordinance”.
12. Pursuant to Section 418.B of the *Kings County Development Code*, the project shall comply with the following requirements pertaining to fencing and gates:
  - A. Fences, Walls, and Hedges exceeding six feet in height shall be permitted except that fences, walls, and hedges shall not exceed three feet in height within a Traffic Safety Visibility Area as defined in Article 25 of this Development Code.
  - B. Gates shall be permitted as follows:
    - 1) Gates which are used for the primary vehicular ingress and egress and which are opened and closed manually shall be setback so that the greater of the following distances are met from the property line being used for access:
      - a. A minimum distance of 20 feet.
      - b. A distance sufficient to ensure that vehicles used for a permitted use requiring a Site Plan Review or Conditional Use permit are able to pull completely onto their property.
    - 2) Gates used for the primary vehicular ingress and egress and which are opened and closed electronically with a remote control may be located within any portion of the property being used for access to a driveway provided that:
      - a. The property owner/occupant shall obtain a building permit from the building department for the installation of the electric gate operating mechanism and wiring.

The property owner/occupant must also request and obtain a final inspection for the assigned building permit and demonstrate operation of the mechanism using the remote.

- b. The gate must be operational at all times using a remote control device that allows the property owner/occupant to open and close the gate to enter the driveway area without exiting the vehicle.
  - c. At any time that the gate is not operational using the remote control device the gate must either be locked in the open position or it must be removed entirely.
- 3) Access gates to property which are not the primary vehicular ingress and egress such as an access gate to a rear yard to allow the parking of an RV, boat or similar use or for equipment access to be used in maintenance of the property do not require additional setback from the property line. Secondary access gates shall have locking mechanisms accessible only from the interior side of the gate.
13. All open and unlandscaped portions of the lot shall be maintained in good condition, free from weeds, dust, trash and debris.
14. The minimum yard requirements from property line to a structure shall be as follows:
- A. The minimum front yard setback for occupied structures shall be not less than fifty (50) feet from the public road right-of-way line or the property line if not fronting on a public road right-of-way. The minimum front yard setback for non-occupied uses shall be not less than thirty-five (35) feet from the public road right-of-way or property line if not fronting on a public road right-of-way.
  - B. The minimum side yard setback shall be ten (10) feet from the side property line for interior sites. The minimum side yard setback shall be twenty (20) feet from the public road right-of-way line on the street side of a corner site.
  - C. The minimum rear yard setback shall be ten (10) feet from the rear property line.
15. The minimum distance between structures shall be ten (10) feet.
16. The applicant shall develop and submit a pest management plan and weed abatement plan to the Kings County Community Development Agency for review and approval which establishes set action thresholds, identify pests, specify prevention methods as a first course of action, specify control methods as a second course of action, and establish a quantitative performance goal of nuisance reduction to adjacent farmland. Rodenticide, if used, shall be selected and used in a manner that minimizes impacts to protected biological species.
17. The applicant shall develop and submit a Solid Waste Management Plan to the Kings County Community Development Agency for review and approval which establishes action items and specific control methods to ensure that: (1) The non-hazardous waste generated during construction and operation shall be segregated on-site for recycling or disposal at a Class III



landfill; and (2) Hazardous wastes generated during project construction and operation shall be either recycled or disposed of at a Class I disposal facility, as required.

18. Prior to the issuance of a building permit, the applicant shall submit a Soil Reclamation Plan for review and approval by Community Development Agency staff, in accordance with MM AG-2.
19. Prior to the issuance of a building permit, the applicant shall post a performance bond or similar instrument to ensure completion of the activities under the Reclamation Plan, in accordance with MM AG-3.
20. All mitigation measures in the Mitigation Monitoring and Reporting Plan (MMRP), as modified, pertain to Modification No. 1 to CUP No. 19-01, and are adopted as conditions of this approval, and included in Modification No.1 to the Conditional Use Permit.
21. The weed abatement plan shall contain specific provisions to address Russian Thistle (also known as tumbleweed). The weed abatement plan shall also contain specific provisions requiring that weeds be addressed on an annual basis (prior to reaching maturity and prior to producing seeds) on the entire property that the project site is located on, the perimeter fence line, the area outside the perimeter fence to all adjacent property lines, and the area outside the perimeter fence to the adjacent County road shoulder.
22. The applicant shall comply with all requirements of, and obtain any necessary permits from, the San Joaquin Valley Air Pollution Control District (SJVAPCD). Questions concerning SJVAPCD requirements should be direct to Georgia Stewart at (559) 230-5937.
23. The applicant shall comply with all requirements of, and obtain any necessary permits from, the California Regional Water Quality Control Board (CRWQCB). Questions concerning CRWQCB requirements should be direct to David Sholes at (559) 445-6279.
24. The applicant shall comply with all adopted rules and regulations of the Kings County Public Works Department, Fire Department, and Department of Environmental Health Services, and all other local and state regulatory agencies.
25. Pursuant to Section 14-38(d) of the *Kings County Code of Ordinances*, a “Notice of Disclosure and Acknowledgment of Agricultural Land Use Protection and Right to Farm Policies of the County of Kings” shall be signed, notarized, and recorded.
26. Pursuant to Section 66020(d)(1) of the *California Government Code*, the owner is hereby notified that the 90-day approval period in which the applicant may protest the imposition of fees, dedications, reservations, or other exactions, begins on the date that this resolution is adopted.
27. Sales, use, or transactions tax may apply to business activities on the site. The applicant may seek written advice regarding the application of tax to your particular business by writing to the nearest State Board of Equalization office. For general information, please call the Board of Equalization at 1-800-400-7115.
28. Within eight (8) days following the date of the decision of the Kings County Planning

Commission, the decision may be appealed to the Kings County Board of Supervisors. The appeal shall be filed with the Clerk of the Board of Supervisors.

29. This Conditional Use Permit shall lapse and shall become null and void three (3) years following the date that the Conditional Use Permit became effective, unless prior to the expiration of three (3) years the proposed use has been established. A Conditional Use Permit involving construction shall lapse and shall become null and void three (3) years following the date that the Conditional Use Permit became effective, unless prior to the expiration of three (3) years a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site that was subject of the Conditional Use Permit application.
30. This Conditional Use Permit may be renewed for additional periods of time, if an application (by letter) for renewal of the Conditional Use Permit is filed with the Planning Commission prior to the permit's expiration date.
31. This approved conditional use permit shall run with the land and shall continue to be valid upon change of ownership of the site which was the subject of the conditional use permit approval.
32. This permit shall become effective upon the expiration of eight (8) days following the date on which the permit was granted unless the Board of Supervisors shall act to review the decision of the Planning Commission

**OTHER STANDARDS AND REGULATIONS:**

In addition to the above Development Code requirements, other standards and regulations affecting this project are listed below. These requirements are not part of this zoning approval. However, compliance is required by the departments and agencies listed below. Appeals for relief of these standards and regulations must be made through that department's or agency's procedures, not through the Development Code procedures.

**KINGS COUNTY COMMUNITY DEVELOPMENT AGENCY - BUILDING DIVISION** Contact Darren Verdegaal at the Kings County Community Development Agency - Building Division at (559) 852-2683, regarding the following requirements:

1. Building permits must be obtained from the Building Division of the Kings County Community Development Agency for any structures, plumbing, electrical, or mechanical work.
2. Failure to obtain a building permit for any structure, prior to commencing construction, which requires a building permit, will result in the payment of a double fee. Payment of such double fee shall not relieve any person from fully complying with the requirements of Kings County Code of Ordinances, Chapter 5 in the execution of the work or from any other penalties prescribed therein.
3. A complete set of plans and calculations shall be required for all work proposed and required by this application. The plans shall be complete, legible and accurate to the satisfaction of the Building Official. Plans and calculations shall be submitted digitally to [kcgc.building@co.kings.ca.us](mailto:kcgc.building@co.kings.ca.us).

4. All special inspection reports shall be provided to the Building Division prior to requesting a final inspection.
5. The applicant is responsible for contacting the Building Division to request a final inspection of the structures prior to occupying the structures and prior to startup of the operation. No building or structure shall be used or occupied until the Building Division has issued a Certificate of Occupancy.
6. All drive approaches and durable dustless surfaces shall be installed prior to the final inspection and maintained as per County Standards.
7. If the facility will have employees on-site for maintenance of the system an accessible restroom shall be provided and shall comply with Section 1115B of the California Building Code. This may be accomplished by either construction of a permanent structure or use of a chemical toilet with a regular maintenance schedule.
8. Pursuant to Section 1129B of the California Building Code, one (1) van accessible parking space, allowing room for individuals in wheelchairs, on braces or crutches to get in and out of an automobile onto a level surface, suitable for wheeling and walking shall be provided. The parking space shall be 9 feet x 20 feet with an 8-foot wide loading and unloading aisle placed on the side opposite the driver's side. The surfacing of the parking space, loading and unloading aisle and the accessible path from the space to the entrance of the building shall be either asphalt concrete or concrete.
9. The development shall comply with all applicable Americans with Disabilities Act (ADA) requirements, especially Section 1127B of the California Building Code, which states that site development and grading shall be designed to provide access to all entrances and exterior ground-floor exits, and access to normal paths of travel. The accessible route of travel shall be the most practical direct route between accessible building entrances, accessible site facilities and the accessible entrance to the site, including but not limited to access from the accessible parking space to accessible building entrances.
10. A soils report, prepared by a qualified soils engineer, shall be provided to the Building Division prior to issuance of building permits.
11. The facility shall meet the requirements of the State of California Model Water Efficient Landscape Ordinance. Landscape and irrigation plans shall be provided to the Community Development Agency for review and approval prior to building permit issuance.
12. All construction shall conform to the latest adopted edition of the California Building Standards Code which consists of the California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, and California Energy Code, California Fire Code and California Green Building Standards Code.
13. A septic system design, prepared by a qualified soils engineer, shall be provided to the Building Division prior to issuance of building permits.

14. School fees based on square footage of building shall be added to the cost of the building permit, unless the school district provides an exemption from the school fees.
15. The site, as well as the buildings, shall be made accessible and usable by the disabled according to the *California Building Code Chapter 11B*.
16. The tenant, lessee and/or owner are responsible for compliance with the Americans with Disabilities Act, ADA. By federal law the facility shall be made accessible to the highest degree possible.
17. Public Facilities Impact Fees for the building shall be payable at the time of the issuance of the building permit.

**KINGS COUNTY PUBLIC WORKS DEPARTMENT** Contact Mike Hawkins of the Kings County Public Works Department at (559) 852-2708 regarding the following requirements:

1. All requirements required hereafter shall conform to the Kings County Improvement Standards.
2. All other alternatives to Public Works requirements must be approved by the Kings County Public Works Department.
3. That access to the site from a public road must be provided, and must be approved by the Kings County Public Works Department.
4. The applicant shall obtain an encroachment permit from the Kings County Public Works Department.
5. The applicant shall provide asphalt concrete drive approach(es).
6. Traffic Ingress and egress shall be per site plan.
7. Drive approaches shall be constructed in accordance with Section 205 of the *Kings County Improvement Standards* and shall be 2.5 inches of asphalt concrete over 10 inches of Class 2 Base Rock from the edge of roadway to the gate.
8. Durable and dustless surfacing shall be constructed for all roads constructed on site.
9. All drainage shall be contained on-site.
10. Perimeter fencing shall be placed outside of the County right-of-way not closer than 1 foot to the Right-of-Way line.
11. No private overhead lines shall be placed within the right-of-way.
12. Gates at access points shall be indented per the Kings County Development Code.



13. Applicant/Owner shall maintain fence line and adjacent County road shoulder in a weed free condition.
14. Applicant/Owner shall provide a video documentation of County roadway conditions for paths of travel used with truck traffic bringing materials to the site prior to any construction activities. Applicant/Owner shall patch any potholes and repair any edge pavement failures or road shoulder damage that is a result of the project construction/decommissioning phases as directed by County Public Works.
15. Applicant/Owner shall provide street light on a timber pole per County Standards to be placed on the entrance to access road. Provide for a 4,000 Kelvin, 120 or 139 watt LED street light on standard wood pole to be maintained and paid for by the applicant/owner at the entrance to the site.
16. Applicant/Owner shall design and construct all improvements necessary to provide for the safe travel of traffic on Nevada Avenue at and approaching access points to site. Primary concerns shall include the mitigation of thru traffic and vehicles turning left or right off of Nevada Avenue into the solar site during the construction phase. Submit engineered improvement drawings for this work to the public works department for review and approval.

**KINGS COUNTY FIRE DEPARTMENT** Contact Rick Levy of the Kings County Fire Department at (559) 852-2885 regarding the following requirements:

1. Applicant must submit three (3) sets of 24 x 36 inch plans. All plans shall comply with the California Fire Code and all regulations of the Kings County Fire Department.
2. Project location, including the full legal address of the facility, and building number(s) if applicable; tract or parcel number.
3. The contractor's name, telephone number, address and California State contractor's license number and classification.
  - a. Identify the fire extinguisher locations, type and size, mounting style and height above finished floor. Must have a California State Fire Marshal service tag affixed to them.
  - b. Show all roadways. Show the current property vehicle access points as well as the proposed vehicle access points for this project.
  - c. Show the location and width of the fire apparatus access lanes.

**Additional Requirements.** The following additional requirements may be needed in order to obtain approval by the Kings County Fire Department of an application for a permit to build a photovoltaic solar panel facility. The Kings County Fire Department reserves the right to amend existing comments or requirements or add additional comments or requirements depending upon the hazards involved with an individual project(s).

**NOTE - Satisfying the below requirements does not automatically mean your plans will be approved.**

1. Access Roads

- a) The engineering designs of all life safety and fire suppression roads shall be reviewed by the Kings County Public Works Department and approved by KCFD.
- b) Life safety and fire suppression access roads shall be not less than 20 feet in width around the perimeter of the site and shall include interior fire access roads of not less than 20 feet in width that are spaced so that there is not greater than 400 feet in separation between fire access roads on the interior of the site.
- c) Life safety and fire suppression access roads shall be designed, engineered, and maintained to be an all-weather surface capable of supporting the imposed loads of a sixty-five thousand (65,000) pound fire apparatus with a maximum grade of 12 percent.
- d) There shall be an unobstructed vertical clearance of 13 feet 6 inches above all life safety and fire suppression access roads.
- e) If an access road is a dead end road, the access road shall include either a 50 foot radius at the end of the road or other KCFD approved turn around space.
- f) There shall be a minimum of 4 feet of separation between rows to allow access for fire suppression personnel and equipment.
- g) Facilities having a gross building area of more than 62,000 square feet shall be provided with two separate and approved Life Safety and Fire Suppression access roads/entrances. It should be noted that if the developer chooses to fund the purchase of an all-terrain firefighting vehicle this requirement is still needed since due to the size of the structure more than one firefighting vehicle would be needed.
- h) At the sole discretion of the Kings County Fire Chief or his or her designee, an applicant may request to satisfy requirement c) above regarding surfacing of interior fire access roads by:
  - 1) Providing funds sufficient to purchase an all-terrain firefighting vehicle of a model, cost, conditions, and equipment as specified by the Kings County Fire Department.
  - 2) Providing funds to be held in a special account to pay for the purchase, maintenance, repair, or replacement of an all-terrain firefighting vehicle as set forth, above. The amount of funds to be provided shall be set by the Kings County Fire Department as an amount equal to the pro rata share of the cost of purchasing a new vehicle based upon the acreage of the solar project, as well as any other factors deemed pertinent including, but not limited to, the project's proximity to other solar projects, agricultural or residential developments, or fire stations.

2. Fire Suppression Systems and Access to Water

- a) Any fire suppression systems will need to meet all applicable State and Kings County Fire Department requirements.
- b) The fire protection system, including fixed and portable extinguishing systems, must be up to date on required annual fire inspections and tests and be approved by the Kings County Fire Department.
- c) The Fire Department may require a supply of firefighting water available in a storage tank(s) on site. The amount of water required and any required connections shall be in accordance with NFPA 1142 and the Kings County Fire Department. The tank shall be equipped with a pressure system and float valve device to keep the tank full at all times.

3. Gates and Address Numbers

- a) Four-inch reflective address numbers at the main street side entrance shall be installed pursuant to Section 505.1 of the California Fire code.
- b) Where gates are provided, a means of Fire Department entry shall be provided. Manual gates shall have a Fire Department Knox key lock provided. Powered gates shall be provided with a Fire Department Knox access override system. Gates shall open inward and gate entrances shall be 4 feet wider than the lane serving the gate and be located a minimum of 30 feet from the roadway to allow a vehicle to stop without obstructing traffic. A Knox pad lock shall be placed on chained gates or Knox box with gate access keys mounted at the main entrance for Fire Department access.

4. On-site Fire Extinguishers

- a) There will be a minimum rated 4A60BC Fire Extinguisher located at each inverter pad and transformer pad, mounted on a bollard protected from the weather or in a cabinet. All extinguishers shall be mounted with securely fastened hangers so that the weight of the Extinguisher is adequately supported, and at a height compliant with the California Fire Code. Additional extinguishers may be required based upon special hazards or conditions. These extinguishers must be maintained per California Fire Code.
- b) Minimum of one fire extinguisher shall be on site during construction of the facility. The required number and type of extinguishers on site during construction will vary by size of the facility.
- c) Employees shall be familiar with the use of fire safety equipment.

5. On-Site Battery Storage Units or Devices

The addition of battery storage units or devices will trigger additional Fire Department requirements dependent upon the battery technology and design selection employed. Requirements

may include but shall not be limited to, the purchase of specialized hazmat vehicles and equipment along with mandated training of Fire Department personnel.

6. Training regarding interruption of electrical power supply

Subject to Fire Marshal approval, applicant shall provide training for fire personnel to be able to interrupt electrical power safely for emergency incidents requiring fire suppression or rescue activities.

7. Maintenance of Site

- a) Areas within the solar array must be maintained free of flammable materials; annual vegetation must be maintained at a height of less than four inches.
- b) A clear, brush-free area of ten feet (thirty feet in the SRA) shall be required around ground-mounted photovoltaic arrays. This area shall also be cleared of all dry grass, weeds, rubbish, trash, litter, tires, tree stumps, and other waste material, or any flammable material.

**KINGS COUNTY HEALTH DEPARTMENT** Contact Troy Hommerding of the Kings County Department of Environmental Health Services at (559) 852-2627 regarding the following requirements:

- 1. A public drinking water permit is required from facilities that meet the definition of a small public water systems as per Section 116275 of the California Safe Drinking Water Act which is contained in Part 12, Chapter 4 of the California Health and Safety Code. Facilities that serve 5 or more residential units or provide water to 25 or more people for 60 or more days per year fall under this requirement. A completed and approved application with technical report is required by the Kings County Department of Public Health – Division of Environmental Health Services and the State Water Regional Control Board prior to operating a public water system. However, prior to submitting an application package the proponent shall consider Section 116527 of the Health and Safety Code, and Section 106.4 to the Water Code, relating to drinking water. Please contact our office for further assistance at (559)584-1411.
- 2. Any plumbing fixtures, such as hand wash sinks, used by employees for personal use must have bacteriologically safe water. Sinks should be limited to handwashing only and should be posted with signage indicating that the water is suitable for washing and general cleaning, but not recommended for drinking. Bottled water or other potable source must be provided for drinking. If drinking water will be provided to 25 employees or more for 60 days or more over a calendar year, then the facility may require a public water system permit from our office. Portable toilets must be serviced at an adequate frequency so as not to create nuisance conditions.
- 3. Three copies of engineered construction plans for the septic system, including percolation test results, must be provided to our office for review and approval prior to construction. The application form is available at our website <http://www.countyofkings.com/departments/health-welfare/environmental-health-services-1>
- 4. If hazardous materials will remain on site in quantities equal to or greater than 55 gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of a gas, then the facility will be required to file and maintain a Hazardous Materials Business Plan with our office. Applicable forms are available



at our website at [www.countyofkings.com/health/ehs](http://www.countyofkings.com/health/ehs). Any hazardous wastes generated on site must be managed appropriately.

5. Any quantities of hazardous wastes generated by the facility operation must be managed in accordance with Federal, State, and local laws and regulations. Hazardous wastes cannot be disposed of into the municipal waste stream or onsite sewage disposal system. The owner/operator must contact our office at with any questions regarding proper management and reporting of hazardous wastes associated with this operation.
6. Given the proximity of NAS Lemoore and frequent air traffic over the site, as well as adjacent highway and road traffic, the sites must be designed and constructed so as to minimize light reflectivity that might be hazardous for aircraft or vehicles.
7. Portable toilets must be serviced at an adequate frequency so as not to create nuisance conditions.
8. As per the Kings County Public Health Officer, *Coccidioides immitis*, the fungus that causes valley fever, a serious and potentially long-term respiratory illness, is endemic in the soils of Kings County. Construction activities that disturb soils containing the spores of the fungus can put workers and the nearby public at risk. Effective dust control must be maintained on the job site at all times in order to reduce the risk of valley fever to workers and nearby residents. More information regarding the prevention of work related valley fever is available at [www.cdph.ca.gov/programs/hesis/Documents/CocciFact.pdf](http://www.cdph.ca.gov/programs/hesis/Documents/CocciFact.pdf) and <http://www.cdph.ca.gov/programs/ohb/Documents/OccCocci.pdf>. Contact the San Joaquin Valley Air Pollution Control District for more information on dust control techniques.

**SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT:** Contact Georgia Stewart of the SJVAPCD at (559) 230-5800 concerning the following requirements.

1. The applicant shall comply with all San Joaquin Valley Air Pollution Control District regulations including but not limited to Rules 8011 through 8081 (Fugitive Dust Prohibitions) and Rule 9510 (Indirect Source Review) and Regulation.
2. See attached letter.

**Pacific Gas and Electric Company:** Contact PG&E Plan Review Team at (877) 259-8314 concerning the following requirements.

1. See attached letter.

**PREPARATION:**

Prepared by the Kings County Community Development Agency (Chuck Kinney) on May 31, 2021. Copies are available for review at the Kings County Community Development Agency, 1400 W. Lacey Blvd., Government Center, Hanford, California 93230 or at the Kings County Clerk's Office, Government Center, Hanford, California.

# Attachment 6

# KINGS COUNTY PLANNING COMMISSION

June 7, 2021



**KINGS COUNTY**  
**COMMUNITY DEVELOPMENT AGENCY**



## CONDITIONAL USE PERMIT NO. 20-02

The applicant proposes to establish an approximately 250 megawatt (MW) alternating current (AC) solar photovoltaic (PV) generating farm, including the construction of an electrical substation, a battery energy storage facility, an Operations and Maintenance (O&M) facility, access driveways and electrical interconnection/gen-tie line. Utilities including water and electric distribution lines will also be located on-site or adjacent. The Grape Solar project site will be located on approximately 1,759 acres of agricultural land in unincorporated Kings County.





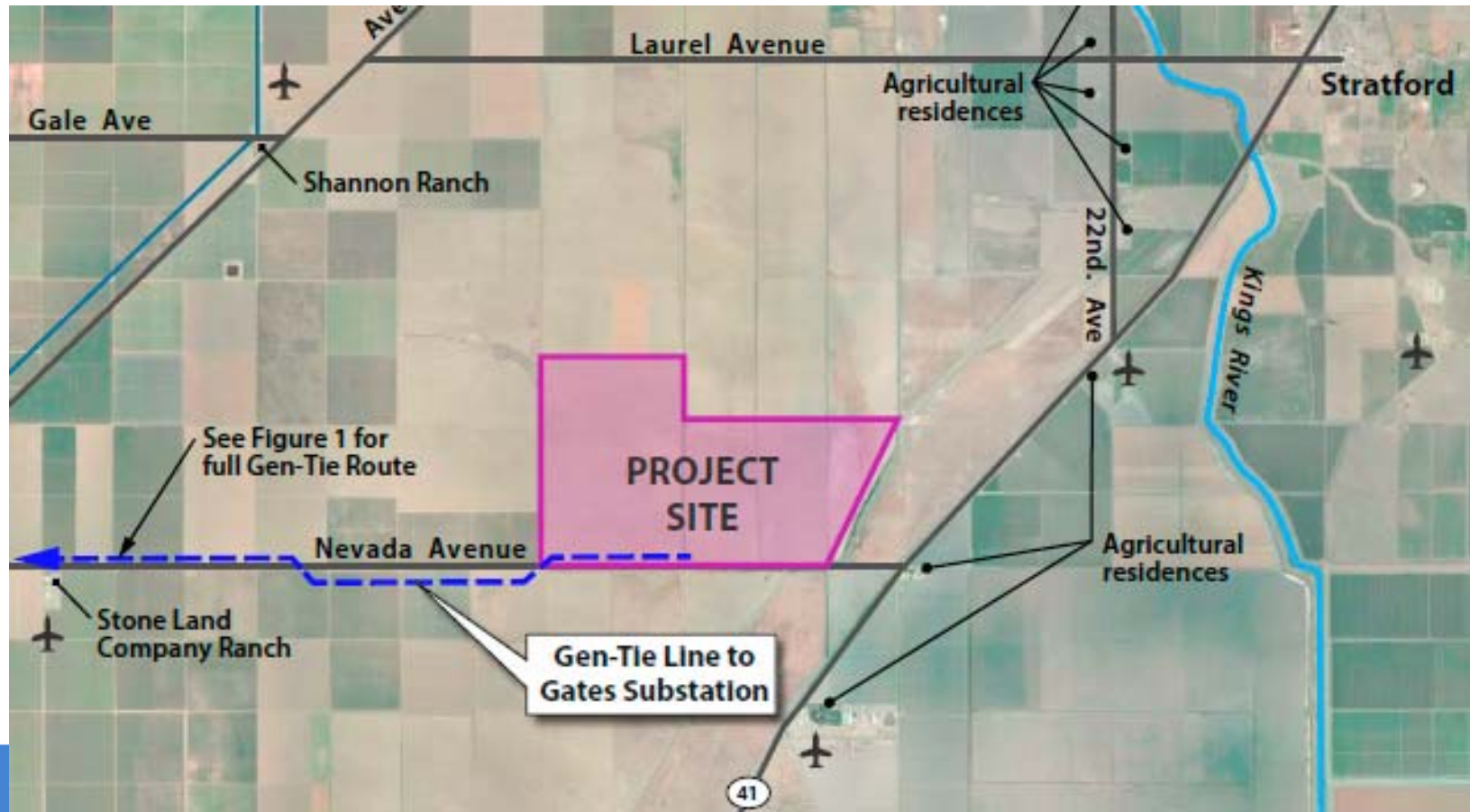
## CONDITIONAL USE PERMIT NO. 20-02

The Grape Solar project site is to be located at 24916 Nevada Avenue, Lemoore, California and is generally located on the north side of Nevada Avenue, approximately one-half mile west of State Route 41. The project site consists of 14 parcels including Assessor's Parcel Numbers 026-320-010, -011, -021, -022, -023, -024, -025, -026, -027, -028; 026-330-032, -033, -034, -035, -036, -037, -055 and 026-330-057.

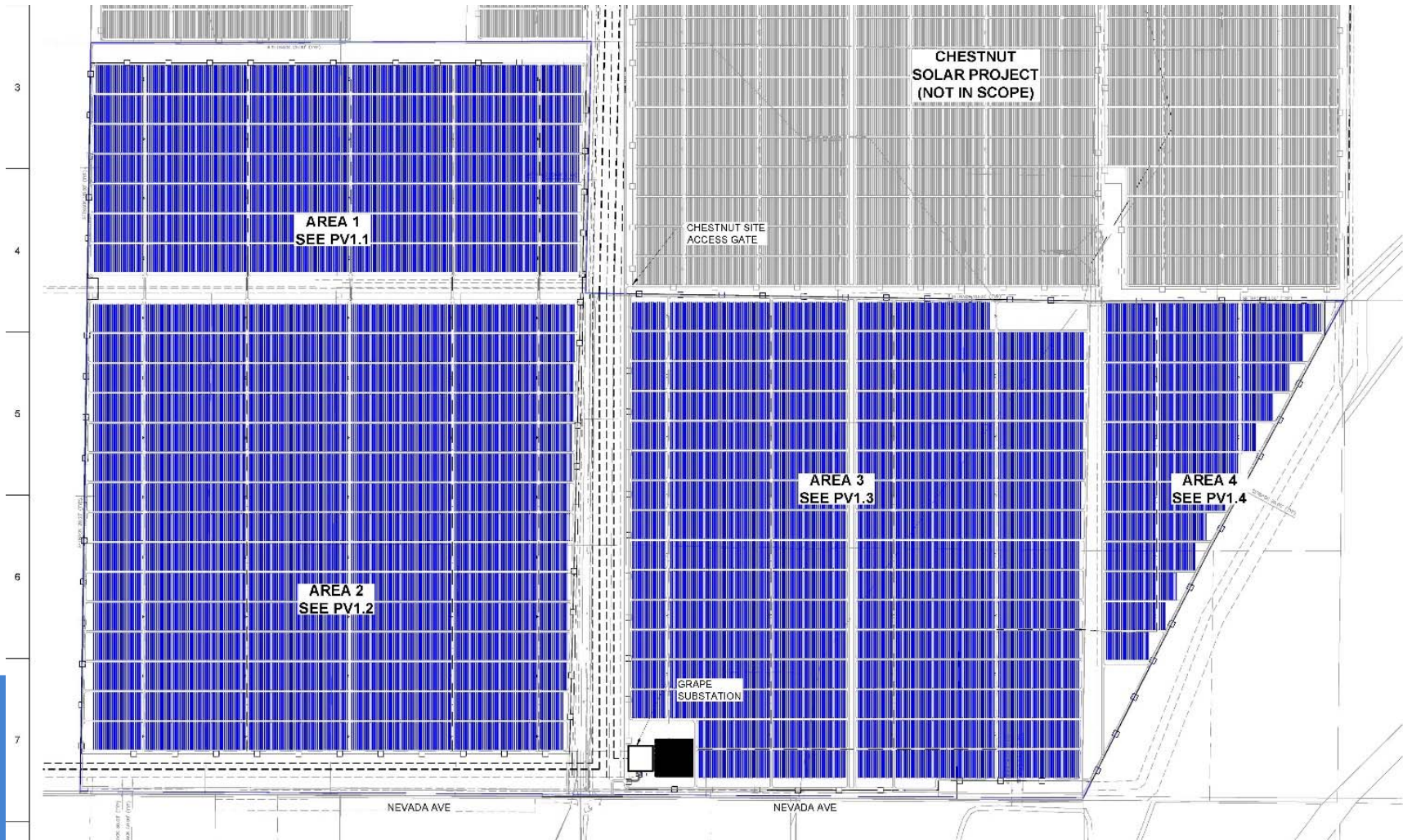
The *2035 Kings County General Plan* designates the project site as being located within the Exclusive Agriculture (AX) and a portion within the General Agriculture (AG-40) land use designation. The project site is within the General Agricultural 40-Acre minimum (AG-40) zone district. The project site will be restricted by a Williamson Act Contract.



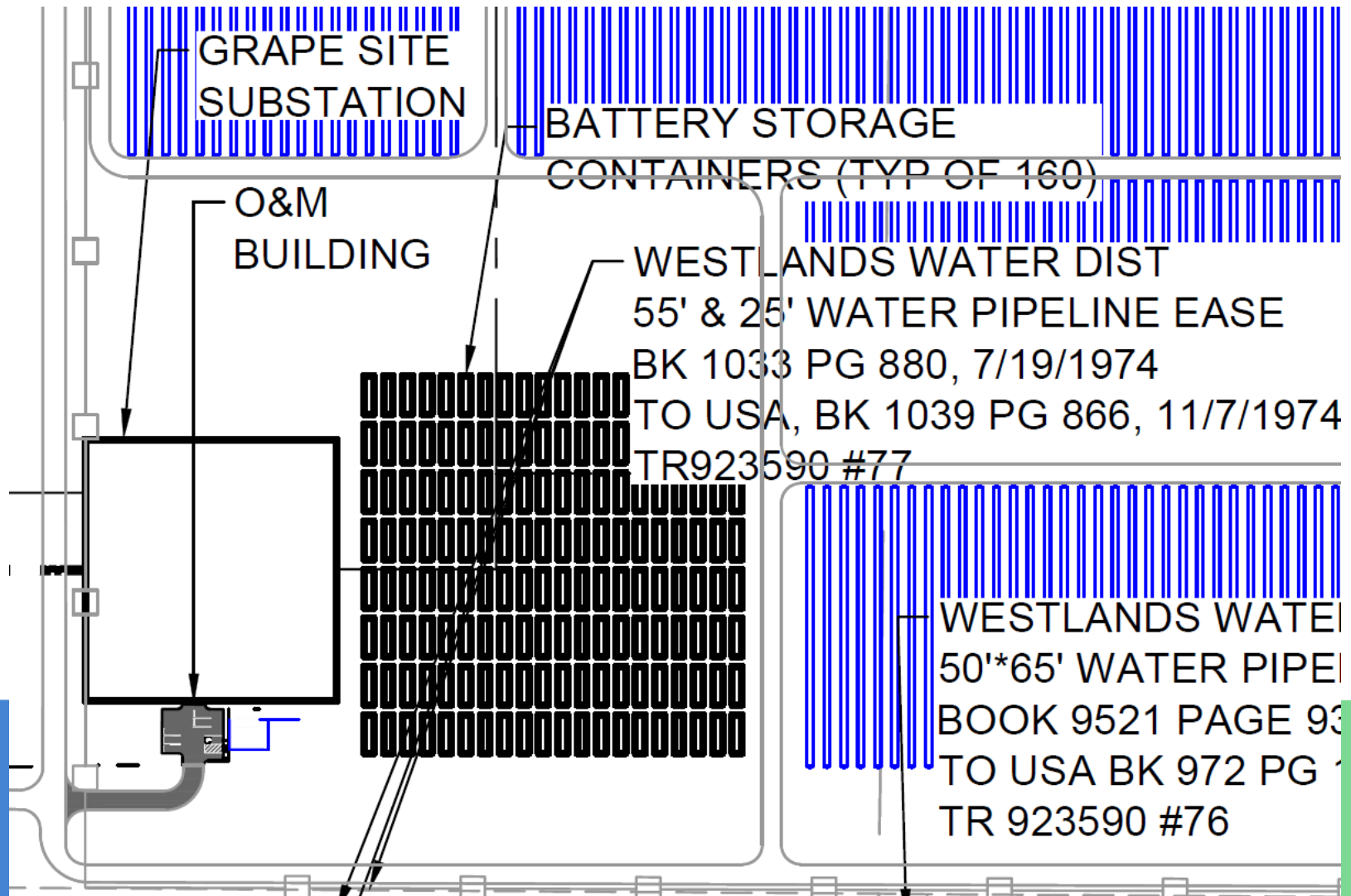
# CONDITIONAL USE PERMIT NO. 20-02



# CONDITIONAL USE PERMIT NO. 20-02



# CONDITIONAL USE PERMIT NO. 20-02





## CONDITIONAL USE PERMIT NO. 20-02

The Initial Study/Mitigated Negative Declaration (IS/MND) for the Westlands Grape Solar Project (CUP No. 20-02) was circulated for public review on March 22, 2021 through May 24, 2021. Comments were received from the California Department of Fish and Wildlife (CDFW). A response to these comments has been drafted and is included in the Planning Commission packet. A review of this Project in compliance with the California Environmental Quality Act (CEQA) indicated that there may be significant adverse impacts to the environment; however, those impacts can be mitigated to an insignificant level by implementing the Mitigation Monitoring and Reporting Program (MMRP), which is attached to the Planning Commission Resolution for this Project.



## CONDITIONAL USE PERMIT NO. 20-02

### --- STAFF RECOMMENDATIONS ---

1. Hold a public hearing.
2. Find that the proposed project may have significant adverse impacts on the environment and that those impacts can be mitigated to an insignificant level by implementing the Mitigation Monitoring & Reporting Program (MMRP) attached to the resolution as Exhibit “A,” and approve the Initial Study/Mitigated Negative Declaration (IS/MND).
3. Find that the project is consistent with the *2035 Kings County General Plan* and the Kings County Development Code.
4. Adopt Resolution No. 21-02, approving Conditional Use Permit No. 20-02 with specified conditions of approval.

This concludes the staff report unless there are any questions.



## CONDITIONAL USE PERMIT NO. 19-01 (MODIFICATION)

The applicant proposes to modify the previously approved CUP No. 19-01 for the Chestnut Solar Project as follows: (1) increase the number of battery storage units from 44 to 150; (2) change the planned location of the project operations center (i.e., substation, operations and maintenance facility, battery storage facility) from the north side of the project site to the south side; (3) include a microwave communications tower up to 175 feet tall within the project operations center; and (4) include in the modified CUP No. 19-01 the 7.2-mile segment of the gen-tie line extending from the substation on the Chestnut Solar Project site to the Fresno County line in the west.



## CONDITIONAL USE PERMIT NO. 19-01 (MODIFICATION)

On October 7, 2019, the Kings County Planning Commission approved Conditional Use Permit (“CUP”) No. 19-01 by the adoption of Resolution No. 19-03. CUP No. 19-01 was approved to develop a 150 Megawatt (MW) photovoltaic (PV) solar energy generating facility to be constructed on approximately 1040 acres located at 14998 Nevada Avenue.

The *2035 Kings County General Plan* designates the project site as being located within the Exclusive Agriculture 40-Acre Minimum (AX) land use designations and the General Agricultural 40 Acre Minimum (AG-40) Zone District. A portion of the project site is restricted by a Farmland Security Zone Contract while the remainder of the site is considered to be subject to Williamson Act Contracts.





## CONDITIONAL USE PERMIT NO. 19-01 (MODIFICATION)

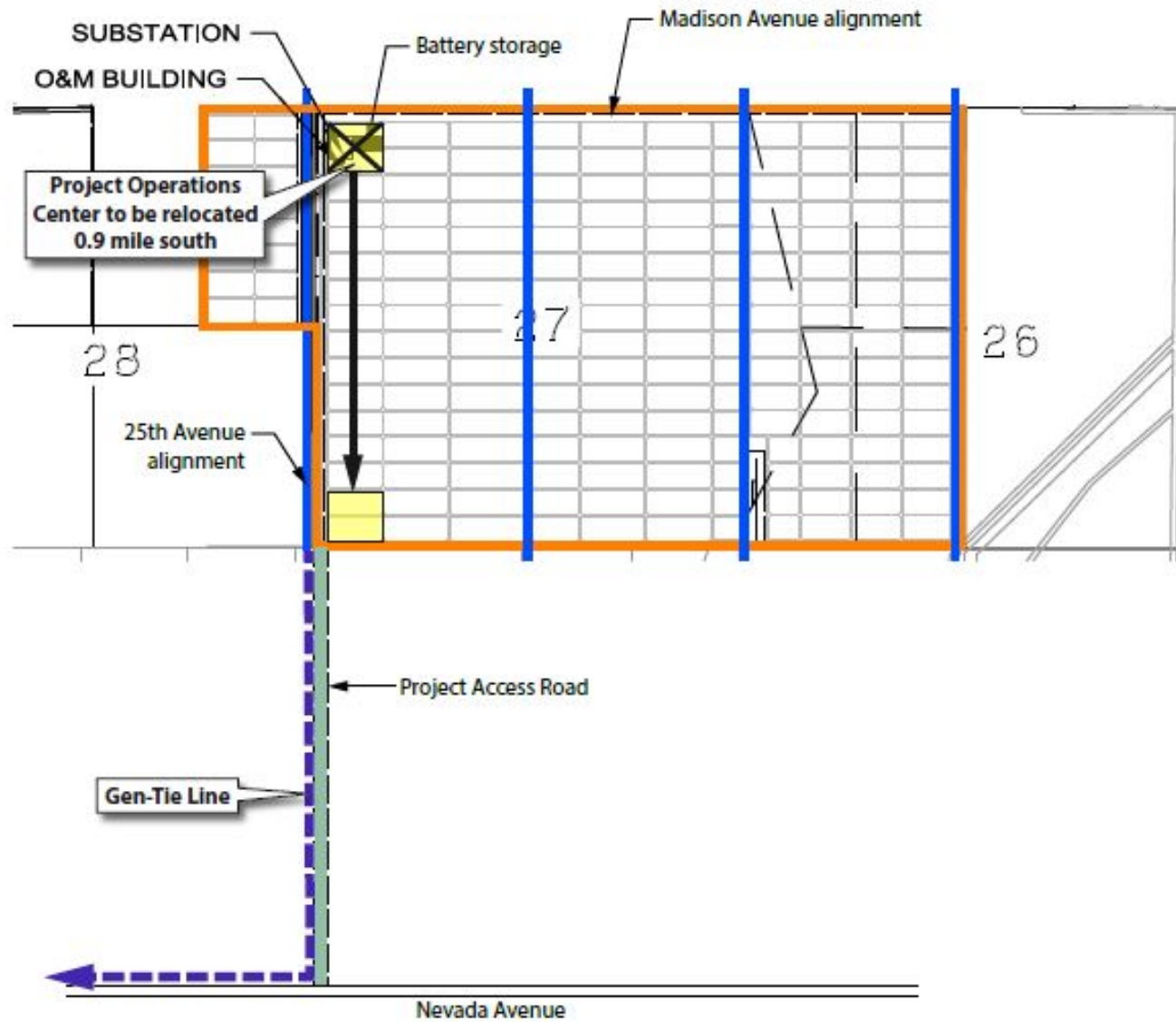
The proposed project is to be located at 14998 Nevada Avenue, Lemoore, and includes Assessor's Parcel Numbers (APNs) 026-320-009, 026-330-001 and 074. The site is on an approximately 1,040-acre site located within an unincorporated portion of Kings County. The project site is generally located northwest of State Route 41, south of Laurel Avenue, west of 22nd Avenue.



# CONDITIONAL USE PERMIT NO. 19-01 (MODIFICATION)



# CONDITIONAL USE PERMIT NO. 19-01 (MODIFICATION)



## CONDITIONAL USE PERMIT NO. 19-01 (MODIFICATION)

California Environmental Quality Act Guidelines section 15164, found in the California Code of Regulations, allows for an Addendum to an approved IS/MND to be prepared when minor technical changes or additions are necessary and if the Addendum does not meet any of the requirements stated in Section 15162. The Environmental Review section of this Staff Report, presented subsequently, details how the conditions of Section 15162 have not been met. The modified Project would not result in any effects to environmental resources that are more severe than those described in the approved IS/MND.

Therefore, as required by CEQA Guidelines Section 15162, the County has evaluated circumstances surrounding each environmental topic in Addendum No. 1 to the IS/MND on Modification to CUP No. 19-01. A Revised and Updated Mitigation Monitoring and Reporting Program (MMRP), is attached to Planning Commission Resolution No. 21-03 as Exhibit “A.”





## CONDITIONAL USE PERMIT NO. 19-01 (MODIFICATION)

### --- STAFF RECOMMENDATIONS ---

1. Hold a public hearing.
2. Find that the proposed project would not result in any impact to environmental resources that are more severe than those described in the approved IS/MND and that those impacts can be mitigated to an insignificant level by implementing the revised and updated Mitigation Monitoring & Reporting Program (MMRP) attached to the resolution as Exhibit “A,” and approve Addendum No. 1 of the Mitigated Negative Declaration (MND).
3. Find that the project is consistent with the 2035 Kings County General Plan, the Kings County Development Code and Williamson Act.
4. Adopt Resolution No. 21-03, approving Conditional Use Permit No. 19-01 Modification No. 1 with specified conditions of approval.

This concludes the staff report unless there are any questions.



## CONDITIONAL USE PERMIT NO. 19-02 (MODIFICATION)

The applicant proposes to modify the previously approved CUP No. 19-02 for the Solar Blue Project as follows: (1) increase the number of battery storage units from 84 to 250; (2) change the planned location of the project operations center (i.e., substation, operations and maintenance facility, battery storage facility) from the south side of the project site to the north side; and (3) include in the modified CUP No. 19-02 the 8.7-mile segment of the gen-tie line extending from the substation on the Solar Blue Project site to the Fresno County line in the west.



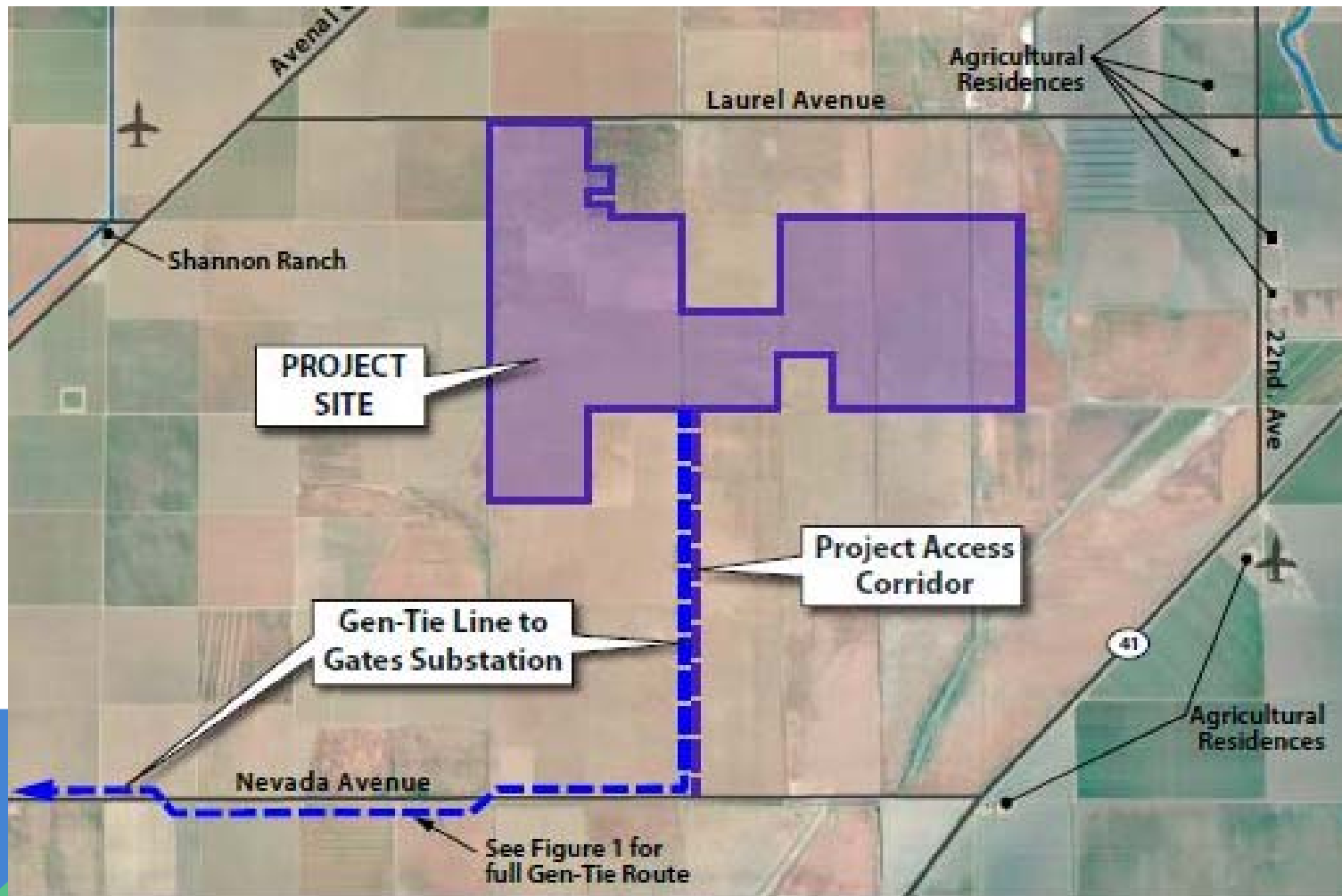
## CONDITIONAL USE PERMIT NO. 19-02 (MODIFICATION)

On October 7, 2019, the Kings County Planning Commission approved Conditional Use Permit (“CUP”) No. 19-02 by the adoption of Resolution No. 19-04. CUP No. 19-02 was approved to develop a 250 Megawatt (MW) photovoltaic (PV) solar energy generating facility to be constructed on approximately 1,895 acres located at 25959 Laurel Avenue, Lemoore.

The *2035 Kings County General Plan* designates the project site as being located within the Exclusive Agriculture 40-Acre Minimum (AX) land use designations and the General Agricultural 40 Acre Minimum (AG-40) Zone District. A portion of the project site is restricted by a Farmland Security Zone Contract while the remainder of the site is considered to be subject to Williamson Act Contracts.

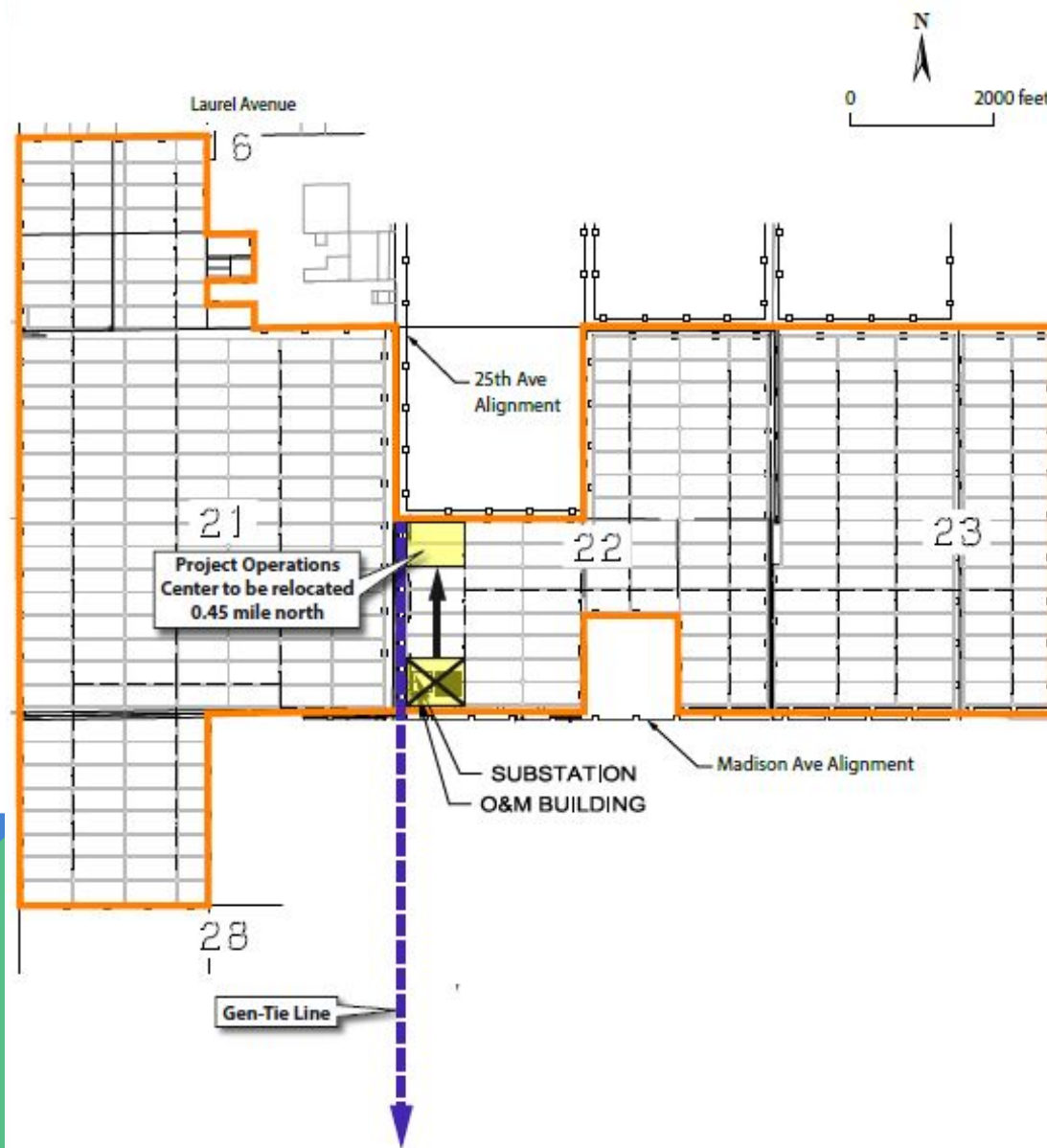


# CONDITIONAL USE PERMIT NO. 19-02 (MODIFICATION)





# CONDITIONAL USE PERMIT NO. 19-02 (MODIFICATION)



## CONDITIONAL USE PERMIT NO. 19-02 (MODIFICATION)

California Environmental Quality Act Guidelines section 15164, found in the California Code of Regulations, allows for an Addendum to an approved IS/MND to be prepared when minor technical changes or additions are necessary and if the Addendum does not meet any of the requirements stated in Section 15162. The Environmental Review section of this Staff Report, presented subsequently, details how the conditions of Section 15162 have not been met. The modified Project would not result in any effects to environmental resources that are more severe than those described in the approved IS/MND.

Therefore, as required by CEQA Guidelines Section 15162, the County has evaluated circumstances surrounding each environmental topic in Addendum No. 1 to the IS/MND on Modification to CUP No. 19-02. A Revised and Updated Mitigation Monitoring and Reporting Program (MMRP), is attached to Planning Commission Resolution No. 21-04 as Exhibit “A.”



## CONDITIONAL USE PERMIT NO. 19-02 (MODIFICATION)

### --- STAFF RECOMMENDATIONS ---

1. Hold a public hearing.
2. Find that the proposed project would not result in any impact to environmental resources that are more severe than those described in the approved IS/MND and that those impacts can be mitigated to an insignificant level by implementing the revised and updated Mitigation Monitoring & Reporting Program (MMRP) attached to the resolution as Exhibit “A,” and approve Addendum No. 1 of the Mitigated Negative Declaration (MND).
3. Find that the project is consistent with the 2035 Kings County General Plan, the Kings County Development Code and Williamson Act.
4. Adopt Resolution No. 21-04, approving Conditional Use Permit No. 19-02 Modification No. 1 with specified conditions of approval.

This concludes the staff report unless there are any questions.



**The Next Planning Commission Meeting**

**is scheduled for July 2, 2021**



Attachment 7



## Kinney, Chuck

---

**From:** Roger McNitt <rmcnitt@bkflaw.com>  
**Sent:** Monday, June 7, 2021 6:49 AM  
**To:** Kinney, Chuck  
**Subject:** Fwd: Westlands Grape, Blue, and Chestnut projects CUP hearings in Kings County California on Monday at 12:45 SEIA Solar Supply Chain Traceability Protocol

FYI. I still haven't heard back from Westlands our request that it sign on to the industry protocols on forced labor. Both the Solar Energy Industries Association and Southern Realty agree that projects should not include polysilicon produced by forced labor in the Chinese province that also produced cheap cotton using forced labor which greatly harmed Kings County cotton growers. That Chinese cotton cannot now be imported. Roger McNitt

Sent from my iPhone

Begin forwarded message:

**From:** Roger McNitt <rmcnitt@bkflaw.com>  
**Date:** June 5, 2021 at 6:13:53 PM EDT  
**To:** kim@stoneadvocacy.com  
**Cc:** tlglaw@aol.com  
**Subject:** Westlands Grape, Blue, and Chestnut projects CUP hearings in Kings County California on Monday at 12:45 SEIA Solar Supply Chain Traceability Protocol

Kim,

Confirming our conversation I was advised Thursday by a late notice of the hearing. I am the President of Southern Realty Co, which owns land and several thousand acres of mineral rights in Kings County. We are big believers in solar energy and already have entered into four surface rights agreements in Kings County. One project has been providing electricity to Palo Alto for years. Our major concern for years in all our long term agreements has been clean up at the end and insurance to guaranty rebuilding in the event of a property loss. This is because all these projects are in the name of a stand alone, single purpose, walk away from if anything goes wrong entity. Although we ask, the large solar developers have declined to accept future responsibility.

We have an existing agreement with Westlands on its Aquamarine project. Westlands has advised us that we have acreage on its projects coming up for hearing, but has not yet contacted us regarding agreements for those.

We are greatly concerned about an issue that has just come up—forced labor in Xinjiang regarding polysilicon. We believe this issue, if not resolved, at a minimum will greatly increase risks to our potential ability to use our property. At a minimum the costs of restoration will greatly increase. There is also a risk that contaminated panels will have to be torn out and replaced. Recall that this is what happened in Detroit when it was discovered that rails on its new rapid transit project came from apartheid South Africa. A worse result would be that a project would become a white elephant due to actions of governments or consumers. We believe that consumers who would likely buy from Community Aggregation groups are also strong defenders of human rights and would not buy tainted electricity.

We have asked Westlands to agree to the SEIA Supply Chain Traceability Protocol as well as its environmental commitments and buyers guide. Westlands has not yet responded to our

request. If it does not so agree, we will raise the forced labor issue at the public hearing and ask that SEIA positions be required. We reserve the right to bring legal action if the forced labor issue cannot be resolved.

Please forward this to your SEIA contact. I can be reached at 619-813-2833. Roger

Sent from my iPhone



**From:** Roger McNitt rmcnitt@bkflaw.com  
**Subject:** Solar industry launches supply chain transparency tool amid pressure to ensure ethical component sourcing | Utility Dive  
**Date:** June 4, 2021 at 1:47 PM  
**To:** chuck.kinney@co.kings.ca.us

Per our conversation today  
<https://www.utilitydive.com/news/solar-industry-launches-supply-chain-transparency-tool-amid-pressure-to-ens/599439/>

Sent from my iPhone

**BRIEF**

# **Solar industry launches supply chain transparency tool amid pressure to ensure ethical component sourcing**

By Jean Haggerty

## **Dive Brief:**

- The Solar Energy Industries Association (SEIA) launched Thursday a new traceability tool aimed at helping manufacturers and importers of solar products identify the source of a solar product's material inputs and trace the movement of these inputs throughout the supply chain.
- This new tool, the Solar Supply Chain Traceability Protocol, is in response to reports of human rights abuses in Xinjiang, China, and the hope is that companies that implement the protocol's key principles will be better placed to navigate U.S. import compliance obligations as well as provide customers with greater supply chain transparency, SEIA said. The new protocol includes an independent third-party audit mechanism to measure a company's implementation of traceability policies and procedures.
- In conjunction with the release of the protocol, SEIA also released a Solar Equipment Buyers' Guide for Supply Chain Traceability and it updated its Solar Industry Commitment to Environmental and Social Responsibility participant handbook.

## **Dive Insight:**

SEIA has released early-stage guidance aimed at helping manufacturers and importers of solar products demonstrate the provenance of solar products and implement a traceability program so that they can ensure their solar products are ethically produced.

Much of the world's polysilicon comes from Xinjiang, a region where the Chinese government has been accused of human rights abuses against the area's Uyghur Muslim population.

The best way to overcome these supply chain issues would be an alternative supply chain outside China, said Johannes Bernreuter, a polysilicon market analyst and head of Bernreuter Research. "But this is very hard to establish as the Chinese solar industry has developed a huge advantage with its economies of scale," he added. In the short term, the only option is tracing and rearranging the supply chain, he said.

For the solar industry, concerns that solar products produced in Xinjiang could have links to forced labor and the fact that solar energy deployment is essential for achieving a carbon neutral future explain why providing assurance that solar products are free from forced labor is so important, officials said.

✓ "Customers want assurances that the [solar] products that they are purchasing don't include forced labor or that their manufacturers are taking steps to prevent forced labor. And transparency is a key element of that," John Smirnow, SEIA's vice president of market strategy said during a webinar introducing the supply chain protocol that SEIA developed with Clean Energy Associates and Senergy Technical Services.

The new traceability protocol is also intended to help importers meet their U.S. customs law reasonable care obligations and improve an importer's ability to respond to U.S. Customs and Border Protection requests for information and audit inquiries,



according to SEIA.

Additionally, in the U.S., the Uighur Forced Labor Prevention Act, which requires an importer to establish by clear and convincing evidence that any good that includes materials from Xinjiang contains no forced labor in its supply chain, is circulating in Congress. If this bill becomes law, a company might not be able to import products into the U.S., Smirnow said.

"And that's just a risk profile that is unacceptable from an industry perspective," he added. "Clear and convincing evidence" is a very high standard, and it requires an independent third-party audit, he said. To measure a company's implementation of traceability policies and procedures, the new traceability protocol includes an independent third-party audit mechanism.

"Certainly, we are hearing about potential enforcement action on polysilicon from Xinjiang," Smirnow said. SEIA does not have specifics on that, but the U.S. government has already taken significant action against imports of tomato products from the region, he pointed out.

Even in the absence of new laws, supply chain transparency can be a key competitive differentiator for solar companies, which often pride themselves as being at the forefront of the sustainability movement. In its transparency protocol, SEIA noted that transparency in a solar company's supply chain could increase an organization's rating by independent agencies and attract investment.

According to SEIA, most companies across the solar modular supply chain already have advanced systems in place to track materials through the various manufacturing processes. This protocol envisions organizations' integrating product traceability to upstream suppliers into the applicable management system in such a way that will allow customers to determine the provenance

of material inputs from a specific module all the way back to the plant that produced the raw materials.

Weaving product traceability into the entirety of the solar module supply chain will require organizations at each level to cooperate and share sensitive information, SEIA said.

In addition to launching the solar supply chain traceability protocol, SEIA has updated its solar commitment handbook, which defines common labor, health and safety, environmental, and ethical standards and expectations for solar companies, and it has created a solar buyers' guide on traceability that solar companies and other stakeholders can use to ask suppliers about ethical sourcing in their solar and storage value chain.

Demand for polysilicon from non-Xinjiang suppliers has been growing, and new capacities have been announced for Chinese regions outside Xinjiang, but according to Bernreuter, China's share of the world's polysilicon capacity, including electronic grade for semiconductors, will increase to more than 80% this year.

**From:** Roger McNitt rmcnitt@bkflaw.com  
**Subject:** Fwd: U.S. solar industry unveils guidelines to free supply chain of forced labor | Reuters  
**Date:** June 4, 2021 at 1:48 PM  
**To:** chuck.kinney@co.kings.ca.us

Per our conversation today

Sent from my iPhone

Begin forwarded message:

**From:** Roger McNitt <rmcnitt@bkflaw.com>  
**Date:** June 3, 2021 at 10:39:04 PM EDT  
**To:** Pamela Prickett <PPrickett@fspwlaw.com>  
**Subject:** U.S. solar industry unveils guidelines to free supply chain of forced labor | Reuters

<https://www.reuters.com/business/sustainable-business/us-solar-industry-unveils-guidelines-free-supply-chain-forced-labor-2021-04-29/>

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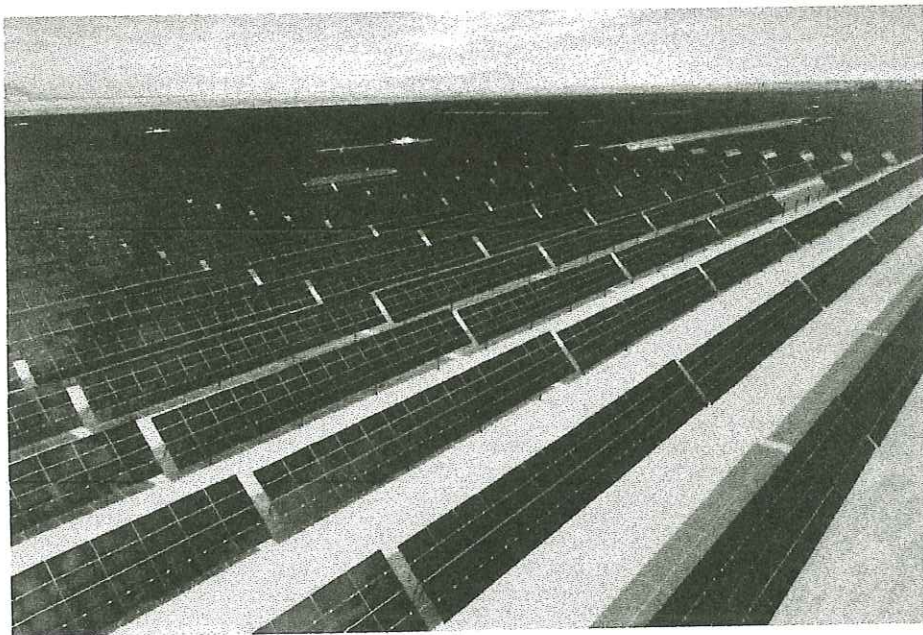
April 28, 2021 9:00 PM PDT

Government

# U.S. solar industry unveils guidelines to free supply chain of forced labor

3 minute read

Nichola Groom



Arrays of photovoltaic solar panels are seen at the Tenaska Imperial Solar Energy

The top U.S. solar industry trade group on Thursday issued a set of voluntary guidelines to solar panel manufacturers that it said could help rid products installed in the United States of components built abroad with forced labor.

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Center  
South in  
this aerial  
photo  
taken over  
El Centro,  
California,  
U.S., May

29, 2020.  
Picture  
taken with  
a drone.  
REUTERS/Bing  
Guan

Some U.S. lawmakers have voiced growing concern that the industry is dependent upon products, specifically the raw material polysilicon, linked to work camps in China's Xinjiang region. The U.S. State Department has made a determination that Chinese

officials are perpetrating genocide there, and imports of cotton and tomato products from the region were banned this year.

China, the world's largest maker of solar products, denies all accusations of abuse.

In an effort to address the concerns, the U.S. Solar Energy Industries Association unveiled a 40-page document that outlines measures companies should take to identify the sources of a product's input materials and trace their movements through the supply chain.



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"We do not want any indication of forced labor in the solar supply chain," John Smirnow, vice president of market strategy for SEIA, said in an interview. "There were serious concerns raised and we are responding in a serious way."

The protocol, which does not mention China specifically, recommends that rigorous descriptions and documentation be included with products as they proceed through factories and are shipped to the United States.



For instance, for an ingot of silicon that is shaped into logs and then sliced into wafers, those individual wafers should be identified as having come from a particular log or batch. That way the wafer purchaser could trace the products back to a specific ingot, according to the document.

The protocol also recommends that companies have their implementation of the procedures audited by a third party.

SEIA late last year began urging its members to exit the Xinjiang region and has asked its member companies to be able to provide assurances by June that their products are free of forced labor.

U.N. experts and rights groups estimate over a million people, mainly Uyghurs and other Muslim minorities, have been detained in a vast system of camps in Xinjiang in recent years.

Our Standards: [The Thomson Reuters Trust Principles.](#)

**More from Reuters**

**From:** Roger McNitt rmcnitt@bkflaw.com  
**Subject:** Fwd: Solar Companies Unite to Prevent Forced Labor in the Solar Supply Chain I SEIA  
**Date:** June 4, 2021 at 1:49 PM  
**To:** chuck.kinney@co.kings.ca.us

Per our conversation today

Sent from my iPhone

Begin forwarded message:

**From:** Roger McNitt <rmcnitt@bkflaw.com>  
**Date:** June 3, 2021 at 10:36:24 PM EDT  
**To:** Pamela Prickett <PPrickett@fspwlaw.com>  
**Subject:** Solar Companies Unite to Prevent Forced Labor in the Solar Supply Chain I SEIA

Per our call  
<https://www.seia.org/news/solar-companies-unite-prevent-forced-labor-solar-supply-chain>

Sent from my iPhone



# Solar Companies Unite to Prevent Forced Labor in the Solar Supply Chain

Thursday, Feb 04 2021

## Press Release

WASHINGTON, D.C. — Today 175 solar companies, including some of the top solar manufacturers in the world, are announcing that they have [signed a pledge opposing forced labor](#) in the solar supply chain. By signing the pledge, companies are stating their commitment to help prevent these abhorrent practices and ensure that the products they are using do not have links to forced labor in the Xinjiang region of China, or anywhere else in the world.

This pledge is part of an [industry-wide effort](#) led by the Solar Energy Industries Association (SEIA) that supports the development of a supply chain traceability protocol and a comprehensive update to SEIA's Solar Commitment, which defines common practices and expectations for the solar industry.

“We’re proud to stand with these companies to vehemently oppose the use of forced labor in the solar supply chain,” **said John Smirnow, vice president of market strategy for the Solar Energy**

**Industries Association (SEIA).** “Forced labor will not be tolerated in our industry. Given reports of labor abuses in Xinjiang and the inability to conduct independent audits there, solar companies should immediately move their supply chains out of the region. We’ve been calling on this for several months now and expect that most of the major suppliers should be out by June 2021, at the latest. We will continue to work with lawmakers, customs officials, the Biden administration, and our international partners to make sure solar imports are proven to be free of forced labor.”

The pledge [remains open for signatures](#), and all companies and organizations operating in the solar industry can join SEIA’s effort. SEIA will continue to expand its coalition and build on this important work over the next several months.

### **Several companies spoke out about their participation in SEIA’s effort:**

“The solar industry is positioned for rapid growth in the coming years, and it’s vital to us at Swinerton Renewable Energy that we do it in a way that is consistent with our values as an employee-owned company,” **said George Hershman, President of Swinerton Renewable Energy and SEIA Board Chair.** “We believe we have a responsibility to positively serve our communities through the work we do, and the exploitation of workers stands in direct violation of this belief. We condemn the use of forced labor in the Xinjiang region and anywhere else in the world.”

“Solar has the potential for enormous positive impact on the world, but that mission is void if products are made on the back of unethical labor practices,” **said Suzanne Leta, Head of Policy and**



**Strategy at SunPower.** “SunPower is committed to making human rights a central issue throughout our supply chain and implore others to do the same. Signing the Forced Labor Prevention Pledge was a meaningful first step; now we must be vigilant about continuing to lead our industry to do the right thing.”

“Integrity, respect and safety are foundational to our core values as a global infrastructure solutions provider,” **said Mario Azar, president of Black & Veatch’s Global Power Business.** “As a leader in the solar industry, Black & Veatch is committed to supply chains that are free of forced labor and remain committed to ensuring our supply chain adheres to these principles.”

“ENGIE rejects all forms of forced, compulsory or child labor and such abhorrent practices have no place in the supply chain,” **said Laura Beane, Chief Renewables Officer for ENGIE North America.** “We prequalify all suppliers, including performing detailed due diligence on key suppliers to validate they satisfy our code of conduct. Our commitment to human rights is not only publicly documented in our Ethics Charter, Supplier Relations Code of Conduct and Human Rights Referential, but now also as a proud signatory of SEIA's pledge.”

“We are at a critical inflection point in the development and implementation of new clean energy sources for our nation, an exciting time that reflects expanded access for all people and new opportunities to slow the effects of climate change,” **said Zaid Ashai, CEO of Nexamp.** “However, this progress cannot come at the expense of global human rights. For this reason, at Nexamp we are fully committed to doing everything we can to identify and evaluate



the origins of the materials we use, with particular attention to avoiding materials that can be tied to the Xinjiang region of China, where issues of forced labor have been identified.”

###

### **About SEIA®:**

The Solar Energy Industries Association® (SEIA) is leading the transformation to a clean energy economy, creating the framework for solar to achieve 20% of U.S. electricity generation by 2030. SEIA works with its 1,000 member companies and other strategic partners to fight for policies that create jobs in every community and shape fair market rules that promote competition and the growth of reliable, low-cost solar power. Founded in 1974, SEIA is a national trade association building a comprehensive vision for the Solar+ Decade through research, education and advocacy. Visit SEIA online at [www.seia.org](http://www.seia.org) and follow @SEIA on [Twitter](#), [LinkedIn](#) and [Instagram](#).

### **Media Contact:**

Morgan Lyons, SEIA's Senior Communications Manager,  
[mlyons@seia.org](mailto:mlyons@seia.org) (202) 556-2872

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**Report: U.S. Corporate Solar Investment Swell to**

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# in the Solar Supply Chain

As the solar industry grows, the supply chain is becoming increasingly important. The solar supply chain is the backbone of the solar industry, and it is essential for the industry to have a strong and reliable supply chain. The solar supply chain includes the manufacturing of solar panels, the installation of solar panels, and the maintenance of solar panels. The solar supply chain is a complex and multi-faceted industry, and it is essential for the industry to have a strong and reliable supply chain. The solar supply chain is the backbone of the solar industry, and it is essential for the industry to have a strong and reliable supply chain.

# 8300 Megawatts Grow 20- Fold Over Last Decade

The solar industry has grown 20-fold over the last decade, reaching 8,300 megawatts of capacity. This growth is driven by a combination of factors, including government incentives, falling costs, and increasing demand. The solar industry is expected to continue to grow rapidly in the coming years, and it is essential for the industry to have a strong and reliable supply chain. The solar supply chain is the backbone of the solar industry, and it is essential for the industry to have a strong and reliable supply chain.

# Installer in the U.S.

The solar installer is a key player in the solar supply chain. The solar installer is responsible for the installation and maintenance of solar panels. The solar installer is a highly skilled and experienced professional, and it is essential for the industry to have a strong and reliable supply chain. The solar supply chain is the backbone of the solar industry, and it is essential for the industry to have a strong and reliable supply chain.

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**From:** Roger McNitt rmcnitt@bkflaw.com  
**Subject:** In Broad Daylight Uyghur Forced Labour in the Solar Supply Chain | Sheffield Hallam University  
**Date:** June 5, 2021 at 4:15 PM  
**To:** chuck.kinney@co.kings.ca.us  
**Cc:** tlglaw@aol.com

<https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight>

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[▶▶  
mailto:mr2591@excl](mailto:mr2591@excl)

# In Broad Daylight: Uyghur Forced Labour and Global Solar Supply Chains



## In Broad Daylight

In Broad Daylight reveals how forced labour in the Uyghur region has ripple effects throughout international solar supply chains.

Read the report

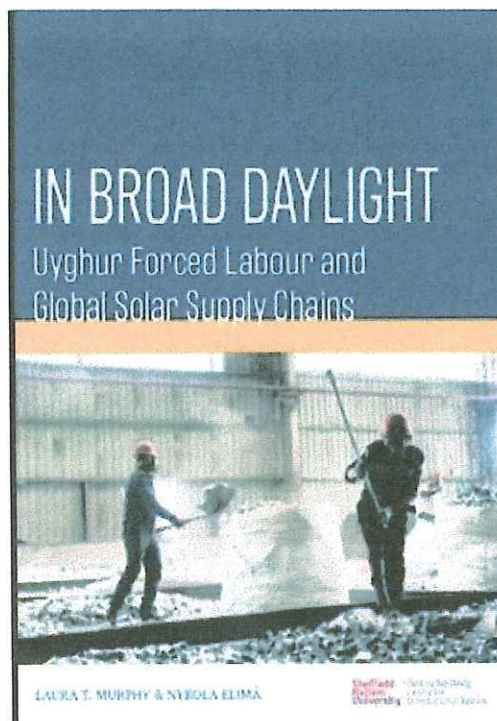


<https://documentcloud.adobe.com/link?url=urn:aaid:scds:US:d360ffab-40cc-48b8b-a8bd503286a3>

Download the report (PDF, 2.8MB)



</media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/in-broad-daylight.pdf>



[https://documentcloud.adobe.com/link/track?](https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:d360ffab-40cc-4d83-8b8b-a8bd503286a3)

[uri=urn:aaid:scds:US:d360ffab-40cc-4d83-8b8b-a8bd503286a3](https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:d360ffab-40cc-4d83-8b8b-a8bd503286a3)

The People's Republic of China (PRC) has placed millions of indigenous Uyghur and Kazakh citizens from the Xinjiang Uyghur Autonomous Region (XUAR or Uyghur Region) into what the government calls “surplus labour” (富余劳动力) and “labour transfer” (劳动力转移) programmes. An official PRC government report published in November 2020 documents the “placement” of 2.6 million minoritised citizens in jobs in farms and factories within the Uyghur Region and across the country through these state-sponsored “surplus labour” and “labour transfer” initiatives. The government claims that these programmes are in accordance with PRC law and that workers are engaged voluntarily, in a concerted government-supported effort to alleviate poverty. However, significant evidence – largely drawn from government and corporate sources – reveals that labour transfers are deployed in the Uyghur Region within an



environment of unprecedented coercion, undergirded by the constant threat of re-education and internment. Many indigenous workers are unable to refuse or walk away from these jobs, and thus the programmes are tantamount to forcible transfer of populations and ✓ enslavement.

It is critical that we examine the particular goods that are being produced as a result of this forced labour regime. This paper focuses on just one of those industries – the solar energy industry – and reveals the ways forced labour in the Uyghur Region can pervade an entire supply chain and reach deep into international markets. We concluded that the solar industry is particularly vulnerable to forced labour in the Uyghur Region because:

- ✓ ● 95% of solar modules rely on one primary material – solar-grade polysilicon.
- ✓ ● Polysilicon manufacturers in the Uyghur Region account for approximately 45% of the world's solar-grade polysilicon supply.
- All polysilicon manufacturers in the Uyghur Region have reported their participation in labour transfer programmes and/or are supplied by raw materials companies that have.
- In 2020, China produced an additional 30% of the world's polysilicon on top of that produced in the Uyghur Region, a significant proportion of which may be affected by forced labour in the Uyghur Region as well.

**In the course of this research, we identified:**


- 11 companies engaged in labour transfers

- 4 additional companies located within industrial parks that have accepted labour transfers
- 90 Chinese and international companies whose supply chains are affected

This report seeks to increase the knowledge base upon which the solar industry determines its exposures to forced labour in the Uyghur Region. We investigated the entire solar module supply chain from quartz to panel to better understand the extent to which forced labour in the Uyghur region affects international value chains. The examples of engagement in these programs are meant to provide stakeholders with the evidence base upon which to judge risk of exposure to forced labour in the solar supply chain.

## **Evidence base**

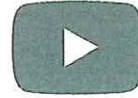
The evidence of forced labour in the Uyghur Region is expansive and growing. The Forced Labour Lab is committed to making evidence and data regarding the oppression of minoritised citizens in the Uyghur region available to the public.

The evidence presented in the report is all publicly available. However, due to the frequency with which corporate reports, news, and social media pages are removed from the web, all websites referred to in the paper have been archived through the [Archive.Today](https://archive.today)  <https://archive.is/> website. Archived versions of pdfs are only screenshots of the website, so those materials are collected here. Materials presented below can be used to understand the



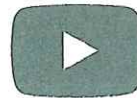
industry better and illustrate the investment of solar/polysilicon industry in Xinjiang.

Wo Ai Zhundong: Zhundong Industrial ...



Wo Ai Zhundong: Zhundong Industrial Park Promotional Video

CCTV report on TBEA's poverty alleviat...



CCTV report on TBEA's poverty alleviation efforts in Southern Xinjiang

## **Corporate Reports**

Corporate disclosures play an important role in understanding the supply chain. These are some of the reports we refer to in our report. (We have not included the cited US SEC filings here because they are easily accessible for free online.)

- [Asia Silicon 2020 Prospectus \(draft\) \(PDF, 5.5MB\) ►► /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/asia-silicon-2020-prospectus-draft.pdf](#)
- [Changji Jisheng 2018 Environmental Protection Acceptance Monitoring Report of Changji Jisheng New Building Materials Co., Ltd. with an Annual Output of 300,000 Tons of New Energy High-end Non-ferrous Metal Profiles \(PDF, 21.5MB\) ►► /-/media/home/research/helena-kennedy-centre/projects/pdfs/evidence-base/changj1.pdf](#)
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Local and regional governments provide cadres with specific instructions as to how to operate labour transfers and surplus labour programmes. These directives and reports help us to understand the way the state is integrally involved in labour recruitment practices in the Uyghur Region.

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Industrial parks play a central role in the development of the industry in the Uyghur Region, as well as in the transfer of labour.

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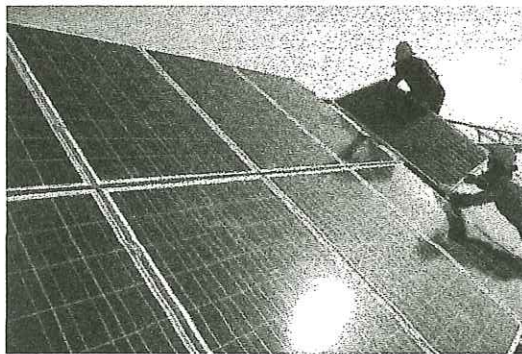
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NATIONAL BUSINESS

# Biden's solar ambitions collide with China labor complaints



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Workers install solar panels at a photovoltaic power station in Hami in northwestern China's Xinjiang Uyghur Autonomous Region Monday Aug. 22, 2011. The Biden administration's solar power ambitions are colliding with complaints the global industry depends on Chinese raw materials that might be produced by forced labor. One big hurdle is polysilicon from Xinjiang, commonly used to make photovoltaic cells for solar panels. (Chinatopix via AP) (ASSOCIATED PRESS)

By JOE MCDONALD | ASSOCIATED PRESS

MAY 24, 2021 3:57 AM PT

BEIJING — The Biden administration's solar power ambitions are colliding with complaints the global industry depends on Chinese raw materials that might be produced by forced labor.

A big hurdle is polysilicon, used to make photovoltaic cells for solar panels. The global industry gets 45% of its supply from Xinjiang, the northwestern region where the ruling Communist Party is accused of mass incarceration of minorities and other abuses. Other parts of China supply 35%. Only 20% comes from U.S. and other producers.

Biden's climate envoy, John Kerry, says Washington is deciding whether to keep solar products from Xinjiang out of U.S. markets. That sets up a conflict with President Joe Biden's plans to cut climate-changing carbon emissions by promoting solar and other renewable energy while also reducing costs.

In Xinjiang, more than 1 million Uyghurs and other members of predominantly Muslim ethnic groups have been forced into detention camps, according to foreign researchers and governments. Authorities are accused of forced sterilizations of minorities and of destroying mosques.

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The San Diego Union-Tribune



Chinese officials reject accusations of abuse and say the camps are for job training aimed at economic development and deterring radicalism.

U.S. and some Chinese solar vendors have pledged to avoid suppliers that might use forced labor. It isn't clear, however, whether they can meet rising demand without Xinjiang, where Beijing won't allow independent

inspections of workplaces.

The biggest manufacturers all use raw materials from Xinjiang and have a “high risk of forced labor in their supply chains,” according to a [May 14 report](#) by researchers Laura T. Murphy and Nyrola Elima of Britain’s Sheffield Hallam University.

The possibility of forced labor “is a problem,” Kerry told U.S. legislators last week. He cited “solar panels that we believe in some cases are being produced by forced labor.”

Western governments have imposed travel and financial restrictions on Chinese officials blamed for abuses. The [U.S. government](#) has banned imports of cotton and tomatoes from Xinjiang, citing concerns over [forced labor](#).

The administration was assessing whether to extend that ban to solar panels and raw materials from Xinjiang, Kerry said. He said he didn’t know the status of that review.

At issue is the government’s “labor transfer” program, which places workers in Xinjiang with companies.

Chinese officials say it is voluntary, but Murphy and Elima argue it takes place in “an environment of unprecedented coercion” and is “undergirded by the constant threat of re-education and internment.”

“Many indigenous workers are unable to refuse or walk away from these jobs,” their report says. It says the programs are “tantamount to forcible transfer of populations and enslavement.”

Murphy and Elima said they found 11 companies engaged in forced labor transfers of Uyghurs and other minorities and 90 Chinese and foreign enterprises whose supply chains

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are affected. They said manufacturers need to make “significant changes” if they want to avoid suppliers that use forced labor.

Murphy and Elima say the biggest global solar equipment manufacturers — JinkoSolar Inc., LONGi Green Energy Technology Co., Trina Solar Energy Co. and JA Solar Holdings Co. — might have forced labor in their supply chains.

Trina and JinkoSolar also have “possible labor transfers” in factories, while a JinkoSolar facility is in an industrial park that also has a prison, according to Murphy and Elima.

JinkoSolar, LONGi, Trina and JA Solar didn’t immediately respond to questions about the report.

At the same time, a supply crunch as demand surges has boosted polysilicon prices more than 100% since January to a 9-year high.

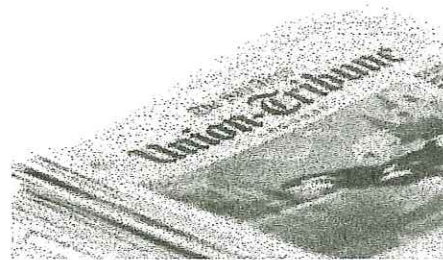
The market is “already undersupplied,” Johannes Bernreuter, head of Germany’s Bernreuter Research, said in an email.

China is both the biggest global market for solar equipment and the biggest producer.

That reflects multibillion-dollar government spending over the past two decades to promote solar energy. The ruling party wants to curb reliance on imported oil and gas, which it sees as a security weakness, and take the lead in an emerging industry.

A supply glut as hundreds of Chinese manufacturers rushed into the industry 15 years ago drove prices down. That hurt Western competitors but accelerated adoption of solar in the United States and Europe.

Seven of the top 10 global producers are Chinese. Canadian Solar Inc. is registered in



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Canada but its production is in China. South Korea's Hanwha Q-Cells is No. 6.

The only U.S. producer in the top 10, First Solar Inc., has no exposure to the Xinjiang polysilicon supply chain because the Tempe, Arizona, company uses thin film technology that requires no polysilicon.

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Vendors serving U.S. and European markets probably can get enough polysilicon outside Xinjiang, Bernreuter said. But he said supplies might be squeezed if other countries impose the same requirement. 

Potential non-Chinese suppliers include Germany's Wacker Chemie AG and the Malaysian arm of South Korea's OCI Co.

However, those companies also might buy raw materials from Xinjiang's biggest supplier, Hoshine Silicon Industry Co., according to Murphy and Elima. They cited documents they said show Hoshine, also known as Hesheng, participates in "labor transfer."

Hoshine didn't immediately respond to questions about the report.

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U.S. solar equipment vendors have been trying since last year to overhaul supply chains to eliminate problem suppliers, according to their trade group, the Solar Energy Industries Association.

In February, 175 companies including the U.S. arms of JinkoSolar, LONGi, Trina and JA Solar signed a pledge to oppose use of forced labor by their suppliers.

Potential changes should be done by the end of June, according to the group's president, Abigail Ross Hopper.

"If their customers and the U.S. government are demanding it, they will need to move quickly," Ross Hopper told PV Magazine USA in February.

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Bernreuter warned the Chinese government "might interfere" with an overhaul, though there is no sign that has happened.

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Sheffield Hallam University report:  
[www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight](http://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight)

Bernreuter Research: [www.bernreuter.com](http://www.bernreuter.com)

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Solar Energy Industries Association:  
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# Attachment 8



**BEFORE THE KINGS COUNTY PLANNING COMMISSION  
COUNTY OF KINGS, STATE OF CALIFORNIA**

**IN THE MATTER OF MODIFICATION NO. 1 )      RESOLUTION NO. 21-03**  
**TO CONDITIONAL USE PERMIT NO. 19-01 )**  
**(RE: Westlands Chestnut Solar Project )      RE: 14998 Nevada Avenue, Lemoore, CA**

**WHEREAS**, on January 11, 2019 Westlands Chestnut Solar, LLC (now known as Chestnut Westside, LLC) filed Conditional Use Permit No. 19-01 to construct, operate, and decommission the Chestnut Solar Project, a 150 Megawatt (MW) photovoltaic (PV) solar energy generating facility to be constructed on 1,040 acres; and

**WHEREAS**, the application was determined to be complete on August 12, 2019; and

**WHEREAS**, approval of a conditional use permit constitutes a “lease, permit, license, certificate, or other entitlement for use”, and is therefore a “project” pursuant to the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.* (“CEQA”) and the CEQA Guidelines, California Code of Regulations Section 15000, *et seq.*; and

**WHEREAS**, as the agency primarily responsible for carrying out or approving said Project, the County of Kings assumes the role of lead agency pursuant to CEQA; and

**WHEREAS**, on August 16, 2019 the County published a notice of intent to adopt a mitigated negative declaration in *The Hanford Sentinel* and filed said notice with the Kings County Clerk, said notice indicating that the initial study/mitigated negative declaration (“IS/MND”) would be available for public review starting on August 16, 2019 and ending on September 16, 2019, with a hearing of the King County Planning Commission to consider said IS/MND to be held on October 7, 2019; and

**WHEREAS**, on August 15, 2019, the County provided the IS/MND to the State Clearinghouse for distribution to State agencies for their review beginning August 16, 2019 and ending on September 16, 2019; and

**WHEREAS**, the Initial Study/Mitigated Negative Declaration (IS/MND) for the 250 MW Chestnut Solar Project was circulated for public review from August 16, 2019, through September 16, 2019; and

**WHEREAS**, the Community Development Agency of the County of Kings is the custodian of the documents and other materials that constitute the record of the proceedings upon which the Planning Commission’s decision is based, and the Kings County Government Center, Engineering Building No. 6, 1400 W. Lacey Boulevard, Hanford, CA 93230 is the location of this record; and

**WHEREAS**, on August 12, 2019 the Kings County Community Development Agency recommended that the Initial Study/Mitigated Negative Declaration be approved for the proposal; and

**WHEREAS**, on August 12, 2019, the Kings County Community Development Agency staff notified the applicant of the proposed recommendation on this project; and

**WHEREAS**, on October 7, 2019, this Commission held a duly noticed public hearing to receive testimony from any interested person; and

**WHEREAS**, on October 7, 2019 the Planning Commission held a duly noticed public hearing for CUP Number 19-01 in the Board of Supervisors Chambers of the Kings County Government Center, 1400 W. Lacey Blvd., Hanford, California; and

**WHEREAS**, at the October 7, 2019, public hearing the Planning Commission received: (1) a report presented by County staff that included the staff recommendation, (2) testimony from the applicant; and (3) testimony from members of the general public; and

**WHEREAS**, the Planning Commission received testimony prior to the close of the public hearing; and

**WHEREAS**, on October 7, 2019, after the conclusion of public testimony the Planning Commission closed the public hearing and deliberated; and

**WHEREAS**, on October 7, 2019, the Kings County Planning Commission approved CUP No. 19-01 and made the following findings and certifications with regards to the California Environmental Quality Act: (1) The Planning Commission reviewed and considered the Initial Study/Mitigated Negative Declaration, together with the comments received during the public review and comment period, before approving the project; (2) Based on the whole record before it, including the Initial Study/Mitigated Negative Declaration and the comments received during the public review period, there was no substantial evidence in the record that the proposed Project will have a significant effect on the environment; (3) The Initial Study/Mitigated Negative Declaration for this Project was completed in compliance with CEQA and was determined to be adequate; and (4) The Initial Study/Mitigated Negative Declaration reflected the Planning Commission's independent judgment and analysis; and

**WHEREAS**, the Initial Study/Mitigated Negative Declaration identified certain significant effects on the environment that, absent the adoption of mitigation measures, would be caused by the construction and operation of the Project; and

**WHEREAS**, the Planning Commission was required, pursuant to CEQA, to adopt all feasible mitigation measures or feasible project alternatives that can substantially lessen or avoid any significant project-related environmental effects; and

**WHEREAS**, the Planning Commission was required by Public Resources Code Section 21081.6, subdivision (a), to adopt a Mitigation Monitoring and Reporting Program to ensure that the mitigation measures adopted by the County are actually carried out; and

**WHEREAS**, as demonstrated by the Mitigation Monitoring and Reporting Program, attached as Attachment "A" to Planning Commission Resolution 19-03, all of the Project's significant environmental effects could be either substantially lessened or avoided through the adoption of feasible mitigation measures; and



**WHEREAS**, the Planning Commission determined it appropriate to certify and adopt the Mitigated Negative Declaration, to adopt the Mitigation Monitoring and Reporting Program, and to approved CUP Number 19-01 subject to the findings and conditions of approval contained in Planning Commission Resolution 19-03; and

**WHEREAS**, on May 4, 2021, an application was received from Westlands Chestnut Solar, LLC to modify CUP No. 19-01 to: (1) Increase the number of battery storage units from 44 to 150; (2) Change the planned location of the project operations center (i.e., substation, operations and maintenance facility, battery storage facility) from the north side of the project site to the south side; (3) Include a microwave communications tower up to 175 feet tall within the project operations center; and (4) Include in the modified CUP No. 19-01 the 7.2-mile segment of the gen-tie line extending from the substation on the Chestnut Solar project site to the Fresno County line in the west.

**WHEREAS**, the application for the Modification No. 1 to CUP No. 19-01 was determined to be complete on May 12, 2021; and

**WHEREAS**, the California Environmental Quality Act (CEQA) Guidelines Section 15164, found in the California Code of Regulations, allows for an addendum to an approved IS/MND be prepared when minor technical changes or additions are necessary and if the project does not meet any of the requirements stated in Section 15162; and

**WHEREAS**, the application for Modification No. 1 to CUP No. 19-01 included Addendum No. 1 to the IS/MND originally approved for CUP No. 19-01; and

**WHEREAS**, the County determined that none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred; and

**WHEREAS**, CEQA section 15164(c) states that an addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration; and

**WHEREAS**, the Planning Commission has reviewed Addendum No. 1 to the IS/MND in its entirety, and determined that the document reflects the independent judgment of the Commission; and

**WHEREAS**, on June 7, 2021, the Planning Commission held a duly noticed public hearing for Modification No. 1 to CUP No. 19-01 in the Board of Supervisors Chambers of the Kings County Government Center, 1400 W. Lacey Blvd., Hanford, California; and

**WHEREAS**, on June 7, 2021, after the conclusion of public testimony the Planning Commission closed the public hearing and deliberated; and

**WHEREAS**, on June 7, 2021, the Planning Commission adopted Resolution No. 21-03 approving Modification No. 1 to CUP No. 19-01; and

**WHEREAS**, Modification No. 1 to CUP No. 19-01 provides for: (1) an increase the number of battery storage units from 44 to 150; (2) the change the planned location of the project operations center (i.e., substation, operations and maintenance facility, battery storage facility) from the north side of the project site to the south side; (3) inclusion of microwave communications tower up to 175 feet tall within



the project operations center; and (4) inclusion in the modified CUP Number 19-01 the 7.2-mile segment of the gen-tie line extending from the substation on the Chestnut Solar project site to the Fresno County line in the west; and

**WHEREAS**, the revised Project would not result in any effects to environmental resources that are more severe than those described in the original IS/MND and all Mitigation Measures and Conditions associated with the original Project would be applied to the modified Project; and

**WHEREAS**, as is the case with the approved Project, the modified Project would have a less than significant impact with the implementation of the approved mitigation measures identified for agricultural resources, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, transportation, and tribal cultural resources. As is the case with the approved Project, the modified Project would have less-than-significant impacts on aesthetics, forestry resources, air quality, energy, greenhouse gas emissions, land use and planning, mineral resources, noise, population and housing, public services, recreation, utilities and service systems, and wildfire; and

**WHEREAS**, as required by CEQA Guidelines Section 15162, the County has evaluated circumstances surrounding each of these environmental topics in Addendum No. 1 to the IS/MND on Modification No. 1 to CUP No. 19-01.

**NOW, THEREFORE, BE IT RESOLVED** that this Commission finds that in order to approve this permit, the Commission is required to make the following findings pursuant to Section 1707 of the *Kings County Development Code*:

1. The proposed use is consistent with the General Plan.
2. The approval of the conditional use permit for the proposed use is in compliance with the requirements of the *California Environmental Quality Act (CEQA)*.
3. There will be no potential significant negative effects upon environmental quality and natural resources that could not be eliminated or avoided through mitigation or monitoring or (b) there will not be potential significant negative effects upon environmental quality and natural resources that could not be mitigated to the extent feasible, and a Statement of Overriding Considerations is adopted explaining why the benefits of the project outweigh the impacts that cannot be mitigated to a less than significant level.
4. The proposed conditional use complies with all applicable standards and provisions of this Development Code and the purposes of the district in which the site is located.
5. The design, location, size and operating characteristics of the proposed conditional use and the conditions under which it would be operated or maintained will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to the public health, safety, or welfare, or materially injurious to other permitted uses, properties, or improvements in the vicinity.
6. That no process, equipment or materials shall be used which, are found by the Planning Commission, to be substantially injurious to persons, property, crops, or livestock in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water carried wastes, noise, vibration, illumination, glare or unsightliness or to involve any undue risk of fire or explosion.
7. That no waste material shall be discharged into a public or private sewage disposal system except in compliance with the regulations of the owner of the system.
8. That all uses shall comply with the emission standards of the San Joaquin Valley Air Pollution Control District.
9. The site plan includes all applicable information as described in Article 16, Section 1602.A.5.



With regard to these required findings, this Commission finds that:

1. The proposed use is consistent with the General Plan.

**Finding:** The proposal conforms with the policies of the Kings County General Plan, specifically:

- A. Figure LU-11 of the *2035 Kings County General Plan* designates this site as Exclusive Agriculture 40-Acre Minimum (eastern 320 acres), and General Agriculture 40-Acre Minimum (western 720 acres).
- B. Page LU-13, Section III.A.1. of the “Land Use Element” of the *2035 Kings County General Plan* states that agricultural land use designations account for a vast majority of the County’s land use. Included within this land use type are four agricultural type land use designations, Limited Agriculture, General agriculture 20-Acre Minimum, General Agriculture 40-Acre Minimum, and Exclusive Agriculture. The major differences between the four Agriculture designations relate to minimum parcel size, animal keeping, and agricultural service business. These designations preserve land best suited for agriculture, protect land from premature conversion, prevent encroachment of incompatible uses, and establish intensity of agricultural uses in manner that remains compatible with other uses within the County. The development of agricultural services and produce processing facilities within the Agricultural areas of the County shall develop to County Standards.
- C. Page LU-13, Section III.A.1 of the “Land Use Element” of the *2035 Kings County General Plan* states that the AX designation is applied around NAS Lemoore and its flight paths to reduce potential conflicts between military jet aircraft operations and surrounding land uses. Areas subject to potential military aircraft noise and safety issues are designated AX to reduce the number of residences and to preserve priority agricultural lands from encroachment by incompatible uses.
- D. Page LU-27, Section IV.B of the “Land Use Element” of the *2035 Kings County General Plan* states that Agricultural Open Space is the most extensive environmental category that displays the rural agricultural nature of the county. The agricultural land use designations (Limited Agriculture, General Agriculture 20 Acres, General Agriculture 40 Acres, and Exclusive Agriculture) are used to define distinct areas of agricultural intensity and protect agricultural land from the encroachment of incompatible uses. Limited and General Agriculture designated areas provide appropriate locations for agricultural support businesses, while Exclusive Agriculture provides a safety and noise buffer around the Naval Air Station. The physical development of agricultural properties is regulated and implemented by the Zoning Ordinance, in which the zone districts have the same designations: Limited Agriculture (AL-10), General Agriculture (AG-20 and AG-40), and Exclusive Agriculture (AX) are used. The minimum parcel size in the Exclusive Agriculture area is 40 acres. (Note: *Zoning Ordinance No. 269.69* was repealed and replaced when *Development Code No. 668* was adopted on March 3, 2015, and became effective on April 2, 2015.)
- E. Page LU-38, LU Goal B7 of the “Land Use Element” of the *2035 Kings County General Plan* states that community benefiting non-agricultural uses remain compatible within the County’s Agriculture Open Space area, and are supported for their continued operation and existence.

- F. Page LU-38, LU Policy B7.1.3 of the “Land Use Element” of the *2035 Kings County General Plan* states power generation facilities for commercial markets shall be allowed and regulated through the Conditional Use Permit approval process, and include thermal, wind, and solar photovoltaic electrical generating facilities that produce power. Hydroelectric and cogeneration facilities shall also be regulated as conditional uses except as follows (Kings County 2010):
- (1) The installation of hydroelectric generating facilities, with a capacity of 5 MWs or less, in connection with existing dams, canals, and pipelines shall be regulated as permitted uses, subject to issuance of a site plan review that is categorically exempt pursuant to Section 15328 of the CEQA Guidelines.
  - (2) The installation of cogeneration equipment with a capacity of 50 MWs or less at existing facilities shall be regulated as permitted uses, subject to issuance of a site plan review which is categorically exempt pursuant to Section 15329 of the CEQA Guidelines.
- G. Page RC-50, RC Objective G1.2 of the “Resource Conservation Element” of the *2035 Kings County General Plan* seeks to promote the development of sustainable and renewable alternative energy sources, including wind, solar, hydroelectric and biomass energy.
- H. Page RC-50, RC Policy G1.2.2 of the “Resource Conservation Element” of the *2035 Kings County General Plan* encourages and supports efforts to develop commercial alternative energy sources in lower priority agricultural lands within Kings County, when appropriately sited.
- I. Page RC-50, RC Policy G1.2.4 of the “Resource Conservation Element” of the *2035 Kings County General Plan* establishes the requirement to coordinate the siting of alternative energy facilities within the Exclusive Agriculture (AX) Zone District with the Naval Air Station Lemoore to ensure such facilities will not have the potential to create a hazard for aircraft (e.g. reflective solar panels).
- 1) As discussed in the original IS/MND and in the Addendum to the IS/MND, the PV solar panels installed at the Chestnut Solar project site would not produce light or glare that would pose a hazard to flight operations at NAS Lemoore.
- J. Page RC-51, RC Policy G1.2.7 of the “Resource Conservation Element” of the *2035 Kings County General Plan* requires commercial solar and wind energy systems to be reviewed as a conditional use permit pursuant to the procedures of the Kings County Zoning Ordinance. It should be noted that the *Kings County Zoning Ordinance* has been replaced by the *Kings County Development Code (Ordinance No. 668)*, which was adopted by the Kings County Board of Supervisors on March 3, 2015, and became effective on April 2, 2015.



2. The approval of the conditional use permit for the proposed use is in compliance with the requirements of the *California Environmental Quality Act (CEQA)*.
  - A. Approval of the proposed Modification No. 1 to Conditional Use Permit No. 19-01 (Westlands Chestnut Solar, LLC) is in compliance with the requirements of the *California Environmental Quality Act (CEQA)*. The proposed use should not be detrimental to public health and safety, nor materially injurious to properties in the vicinity. An addendum (Addendum No. 1) to the original Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for this proposed project modification. The proposed project modification may have significant adverse impacts on the environment; however, those impacts can be mitigated to an insignificant level by implementing the Mitigation Monitoring & Reporting Program (MMRP), as modified, attached to the Planning Commission Resolution for this project modification as Exhibit “A” to Resolution No. 21-03. The Addendum to the IS/MND reflects the Planning Commission’s independent judgment and analysis.

As provided by CEQA Guidelines Section 15168, the subject IS/MND on the Chestnut Solar Project is a tiered CEQA document which was prepared as a subsequent CEQA document to the Program EIR (PEIR) on the Westlands Solar Park (WSP) Master Plan and Gen-Tie Corridors Plan (SCH No. 2013031043) which was certified under CEQA by the Westlands Water District (WWD) Board of Directors on January 16, 2018. The PEIR addressed the potential environmental impacts associated with future solar development within the WSP Master Plan area, and also addressed the potential impacts associated with the planned gen-tie corridor extending from the WSP to the Gates substation to the west, which is required for the transmission of WSP solar generation to the State electrical grid. The PEIR concluded that all of the potential impacts associated with solar development under the WSP Master Plan, along with the implementation of the Gen-Tie Corridors Plan, could be avoided or reduced to less-than-significant levels through the implementation of mitigation measures identified in the PEIR. As such, no significant and unavoidable impacts were identified in the PEIR, and no Statement of Overriding Considerations was required for approval of the WSP Master Plan and Gen-Tie Corridors Plan by WWD.

The PEIR was prepared in close coordination with the staff of the Kings County Community Development Agency (CDA), in recognition of the County’s role as the Responsible Agency for the approval of Conditional Use Permits (CUPs) for individual solar projects to be developed within the WSP Master Plan area. (Under CEQA Guidelines Section 15052, a Responsible Agency may assume the role of Lead Agency if it finds that further environmental documentation is required under CEQA in conjunction with a subsequent project-specific approval within its purview.) The PEIR incorporated all revisions requested by the Kings County CDA with the express purpose of making the PEIR consistent with County policies and practices, and thus facilitating the ability of the Kings County Planning Commission to adopt subsequent CEQA documents (Supplemental EIRs or MNDs) that would be tiered from the certified PEIR.

The Chestnut Solar Project comprises a specific solar project under the WSP Master Plan and is consistent with the Master Plan. Pursuant to CEQA Guidelines Section 15150, the subject IS/MND incorporates by reference the certified PEIR, which can be electronically accessed at <https://wwd.ca.gov/news-and-reports/environmental-docs/>. The Kings County Planning



Commission has duly considered the contents of the certified PEIR and found it to provide complete program-level environmental review for the Chestnut Solar Project, and has found the subject IS/MND to be consistent with the certified PEIR.

The proposed project may have significant adverse impacts on the environment; however, those impacts can be mitigated to an insignificant level by implementing the Mitigation Monitoring & Reporting Program (MMRP), as modified, attached to the Planning Commission Resolution for this project as Exhibit "A." The IS/MND reflects the Planning Commission's independent judgment and analysis.

3. There will be no potential significant negative effects upon environmental quality and natural resources that could not be eliminated or avoided through mitigation or monitoring or there will not be potential significant negative effects upon environmental quality and natural resources that could not be mitigated to the extent feasible, and a Statement of Overriding Considerations is adopted explaining why the benefits of the project outweigh the impacts that cannot be mitigated to a less than significant level.
  - A. The IS/MND did not identify any potentially significant environmental effects that cannot be mitigated to a less-than-significant level. The Mitigation Monitoring & Reporting Program (MMRP), as modified, identifies specific project impacts, how they will be mitigated, and which entity is responsible for ensuring their completion. The MMRP is included as Exhibit "A" to Resolution No. 21-03.
  
4. The proposed conditional use complies with all applicable standards and provisions of the Kings County Development Code and the purposes of the district in which the site is located.
  - A. Article 4, Section 407, Table 4-1, lists commercial solar photovoltaic electrical generating facilities as a conditional use within the Exclusive Agriculture 40-Acre and General Agriculture 40-Acre Zoning Districts, subject to Planning Commission approval.
  - B. Article 10, Section 1004.A of the Development Code states that the Agriculture Overlay Zone (AOZ) is applied to properties designated as Exclusive Agriculture (AX) as shown on Figure LU-11 of the 2035 Kings County General Plan and currently zoned either AG-20 or AG-40. The AOZ provides development Standards and Regulations to implement the Kings County General Plan and address related public health and safety concerns.
  - C. The AOZ is intended to provide added restrictions that are limited in scope and serve to modify the base zone district requirements. The specific purposes of the AOZ are:
    1. Reduce potential land use conflicts around Naval Air Station Lemoore, concerning noise and safety due to the operation of military jet aircraft.
    2. Enhance land use compatibility around Naval Air Station Lemoore by accommodating agriculture, aircraft, and residential uses in a compatible manner that maintains economic and national defense sustainability while also allowing residents opportunities to improve their quality of life.



3. Preserve lands best suited for agricultural uses and serving as a military base safety buffer from encroachment by incompatible uses.
  4. Apply to AX expansion areas as adopted by the Board of Supervisors on January 2010 and any changes and/or amendments of such expansion areas, and implement the policies and provisions of the Kings County General Plan.
  5. The AOZ shall be shown on the Zoning Map by adding the designator "AO" to the base district designation. The AOZ will be applied to all properties designated as Exclusive Agriculture as shown on Figure LU-11 of the of the 2035 Kings County General Plan and currently zoned either AG-20 or AG-40.
  6. The provisions of this chapter shall apply to all parcels of land located within the designated boundaries of the overlay district as illustrated on maps contained on the County zoning map. In the event of a conflict with the regulations of the underlying base zoning district and the overlay zoning district, the provisions of the overlay zoning district shall apply. Where the overlay zoning district is not defined, the regulations of other sections of this title shall apply.
- D. Article 11, Section 1112, Alternative Energy Systems, identifies the following standards for commercial solar electric generating systems in Agriculture Zoning Districts:
1. The proposed site shall be located in an area a designated as either "Very Low Priority," "Low Priority," or "Low-Medium Priority" land according to Figure RC-13 Priority Agricultural Land (2035 Kings County General Plan, Resource Conservation Element, Page RC-20). "Medium Priority" land may be considered when comparable agricultural operations are integrated, the standard mitigation requirement is applied, or combination thereof.
    - a. As shown Figure RC-13 *Priority Agricultural Land* of the 2035 Kings County General Plan, the project site is shown as consisting entirely of Low Priority Agricultural Land. The proposed project is consistent with this requirement of the Code.
  2. The proposed site shall be located within 1 mile of an existing 60 KV or higher utility electrical line. Small community commercial solar projects (less than or equal to 3 MW) may be located more than 1 mile from a 60 kV or higher transmission line subject to the following findings:
    - a. The project site is located on low or very low priority farmland.
    - b. The project site is not restricted by a Williamson Act or Farmland Security Zone contract.
    - c. The project will connect to existing utility infrastructure without building new power lines.
    - d. The project will not result in any additional easements on agricultural land, other than access easements or easements within the public Right-of-Way.

- (1) The proposed project does not classify as a small community commercial project (less than or equal to 3 MW); therefore, the project shall be located within 1 mile of a 60 kV or greater transmission line. An existing 70 KV utility transmission line passes through the project site alongside the 25<sup>th</sup> Avenue alignment. The proposed project is consistent with this requirement of the Development Code.
3. Agricultural mitigation shall be proposed for every acre of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance converted for a commercial solar facility. The agricultural mitigation shall preserve at a ratio of 1:1 an equal amount of agricultural acreage of equal or greater quality in a manner acceptable to the County for the life of the project. Agricultural mitigation on land designated “Medium-High” or higher priority land shall preserve an equivalent amount of agricultural acreage at a ratio of 2:1.
  - a. All of the lands on the project site are classified as Grazing Land in the “Kings County Important Farmlands 2016” (Map), published by the California Department of Conservation’s Farmland Mapping and Monitoring Program (FMMP). The project would not result in temporary or permanent conversion of the Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, and no portion of the project site is designated as Medium-High or higher priority Lands in Figure RC- 13 *Priority Agricultural Land* of the 2035 Kings County General Plan. Therefore, no mitigation is required and this finding would be satisfied.
4. The project shall include a reclamation plan and financial assurance acceptable to the County that ensures the return of the land to a farmable state after completion of the project life, and retains surface water rights.
  - a. A Soil Reclamation Plan, along with requisite financial assurances, are identified for this project in MM AG-2 and MM AG-3. With implementation of MM AG-2 and MM AG-3, this finding would be satisfied.
5. The project shall include a pest management plan and weed abatement plan to protect adjacent farmland from nuisances and disruption.
  - a. A pest management plan and weed abatement plan are conditions of approval. See Condition No. 16 below.
6. The project shall space internal access driveways per Kings County Fire Department standards.
  - a. Prior to issuance of the building permit, detailed site plans showing internal access driveways shall be prepared and provided to the Planning Division and Fire Department. The access driveways shall be maintained and completely surround the solar panels to allow access from any side or end. Access driveways shall not be less than 20 feet wide and shall provide vertical clearance of not less than 13 feet 6 inches. Detailed plans shall be provided for review and the applicant shall meet with the Fire Marshal in a timely manner upon request for clarification of any issues. Any deviation

from these standards requires approval through the Fire Marshal. With implementation of the Conditions for the Conditional Use Permit, this finding would be satisfied.

7. The project shall include a solid waste management plan for site maintenance and disposal of trash and debris.
  - a. The applicant shall implement a Solid Waste Management Plan for this project. The non-hazardous waste generated during construction and operation shall be segregated on-site for recycling or disposal at a Class III landfill. Hazardous wastes generated during project construction and operation shall be either recycled or disposed of at a Class I disposal facility, as required. With implementation of Condition No. 17 listed below, this finding would be satisfied.
8. The project site shall not be located on Williamson Act or Farmland Security Zone contracted land, unless it meets the principles of compatibility under Government Code Section 51238.1(a). Otherwise, the contract shall be proposed for cancellation.
  - a. The easterly 320 acres of the project site are recorded by the Kings County Assessor's Office as being subject to a Farmland Security Zone contract. While the remaining 720 acres of the project site are not currently under any Williamson Act contracts, it is possible that these lands may be required to be re-enrolled under the Williamson Act pursuant to Government Code Section 51295. Therefore, all of the lands within the Chestnut Solar Project site are considered to be subject to Williamson Act contracts for purposes of proposed CUP. The project applicant proposes to avoid conflict with the Williamson Act and Farmland Security Zone contracts by maintaining a use on the entire site that meets the principles of compatibility pursuant to Gov. Code Section 51238.1(a) and by maintaining reasonably foreseeable agricultural operations on the project site. MM AG-1, MM AG-2, and MM-AG-3 shall be implemented so that agricultural uses are maintained during operation of the project and that the agricultural viability of the contracted parcels is maintained after decommissioning. MM AG-1 requires preparation of an Agricultural Management Plan which would outline the ongoing agricultural productivity for the life of the project. The Plan shall address measures in the event grazing is discontinued, which include canceling the existing Williamson Act and Farmland Security Zone Contracts.
5. The design, location, size and operating characteristics of the proposed conditional use and the conditions under which it would be operated or maintained will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to the public health, safety, or welfare, or materially injurious to other permitted uses, properties or improvements in the vicinity.
  - A. The approved project and the proposed project modification were and are subject to analysis pursuant to the *California Environmental Quality Act (CEQA)* and the CEQA Guidelines. The IS/MND on the original Chestnut Solar Project was prepared and circulated for a 30-day public comment period. Addendum No. 1 to the IS/MND was prepared to address the potential impacts associated with the proposed project modifications. With incorporation of mitigation measures, the approved project, as modified, will not result in any of the significant effects which are objectionable or detrimental to the public health, safety, or welfare, or



materially injurious to other permitted uses, properties or improvements in the vicinity. In addition to mitigation measures adopted as part of the Mitigation Monitoring & Reporting Program (MMRP), other conditions of approval, including implementation of zoning, public works, public health, and engineering and design standards will ensure that operation of the proposed use is not a nuisance.

6. That no process, equipment or materials shall be used which, are found by the Planning Commission, to be substantially injurious to persons, property, crops, or livestock in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water carried wastes, noise, vibration, illumination, glare or unsightliness or to involve any undue risk of fire or explosion.
  - A. The modified solar project will not be substantially injurious to persons, property, crops, or livestock in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water carried wastes, noise, vibration, illumination, glare or unsightliness or to involve any undue risk of fire or explosion. The proposed modified project would involve the construction, operation, maintenance and decommissioning of a solar photovoltaic power generating facility on approximately 1,040 acres of land. Hazardous materials would be handled in compliance with applicable laws and regulations regarding transport, handling, disposal, and storage. The modified Project would comply with federal and state regulations regarding the use, handling, disposal, recycling and reuse of PV cells. Lighting will be oriented and/or shielded to the interior of the site to prevent spillage onto nearby properties and rights-of-way. Solar glare would not impact flight paths or the air traffic control station. In addition, compliance with international, federal, state, and local regulations would ensure that there is a low potential for fires. The previously approved IS/MND and Addendum No. 1 to the IS/MND did not identify any potentially significant environmental effects that cannot be mitigated to a less-than-significant level. The Mitigation Monitoring & Reporting Program (MMRP), as modified, identifies specific project impacts, how they will be mitigated, and which entity is responsible for ensuring their completion. The MMRP is included as Exhibit "A" to Resolution No. 21-03. Other conditions of approval, including implementation of zoning, public works, public health, and engineering and design standards will ensure that operation of the proposed use is not a nuisance. Parking areas and driveways will be surfaced and maintained per County standards (see Planning Division Requirements 8, 9 and 10 below). The combination of site design, mitigation measures, and other conditions of approval will result in minimization or elimination of injurious effects.
7. That no waste material shall be discharged into a public or private sewage disposal system except in compliance with the regulations of the owner of the system.
  - A. The approved project would include the installation of a septic tank and drain field system for the wastewater from the O&M Building that could be constructed. The septic system would require a permit from the Kings County Community Development Agency. Onsite septic system facilities would be installed in compliance with the California Building Code and Kings County Plumbing Code (Ordinance No. 567.4 Section 5-82). The system shall be designed by a qualified engineer (see Building Division Requirement No. 13 below).
8. That all uses shall comply with the emission standards of the San Joaquin Valley Air Pollution Control District.



- A. The modified project, as described in the original IS/MND and Addendum No. 1 to the IS/MND, will be required to comply with all applicable regulations of the SJVAPCD, including but not limited to Rules 8011 through 8081 (Fugitive Dust Prohibitions) and Rule 9510 (Indirect Source Review). The construction resulting from the modified project could temporarily increase emissions of PM<sub>10</sub> and thus a condition of approval will require that the project shall comply with SJVAPCD Regulation VIII.
9. The site plan includes all applicable information as described in Article 16, Section 1602.A.5.
- A. Article 16, Section 1602.A.5 requires that site plans for commercial and industrial project be professionally drawn to a scale large enough to show all details clearly with full dimension. Site plans must include detail of the following: lot dimensions; setback measurements; all buildings and structures; yards and space between buildings; all walls, fences, and gates; off-street parking; property access; signs; loading; lighting; street dedications and improvements; landscaping; fire hydrants; on-site drainage; and any other data as required. The site plans for the original project and for the modified project meet all of the criteria required by Section 1602.A.5, such that the locations, sizes, and functions of all existing and proposed features can be ascertained.

**STATEMENT OF FINDINGS OF CONSISTENCY:**

**1. LAND CONSERVATION (WILLIAMSON) ACT FINDINGS:**

- A. Within the 320-acre easterly portion of the project site, there is one parcel that is subject to Farmland Security Zone contract, and the remainder of the project site is considered to be subject to Williamson Act contracts pursuant to Government Code Section 51295. On November 26, 2013, Kings County adopted Resolution No. 13-058 recognizing that certain land parcels within the County south of SR-198 and west of SR-41 (e.g., where the Project site is located) that are under Williamson Act (or Farmland Security Zone) contracts are limited in agricultural production due to reduced surface water deliveries, poor groundwater quality and severe groundwater overdrafts, impaired soil conditions, and regulatory burdens. Further, the Resolution provides that solar uses (solar farming) with dry farm seasonal grazing or similar commercial agricultural activity may be compatible uses under the Williamson Act as long as the applicant for such a project provides a soil reclamation plan and financial assurances, and if a finding can be made, based upon substantial evidence, that the proposed concomitant commercial agricultural operation is a reasonably foreseeable use of the land (taking into account surface water availability, groundwater quality and availability, and soil conditions).

The soil and water analysis reports prepared for neighboring project sites with the same soil types and conditions as the project site state that the native soils of project area have naturally high salt levels, and have been exacerbated by poor natural drainage. The short supply of high quality imported water limits the amount of surface water that can be applied to pre-irrigate the soil to leach out some salts. Long term soil salinity conditions are expected to increase due to lack of a subsurface drainage system and a sustainable leachate disposal outlet. This fulfills the requirements of Resolution No. 13-058 in demonstrating that poor soil and water quality, and insufficient supplies of surface and groundwater currently exist and that the proposed concomitant commercial agricultural operation (solar facility and dry-farm seasonal sheep grazing) would be a reasonably foreseeable use of the land at the project site. Consequently, because the project site is



located within an area covered under Resolution No. 13-058, has adequately demonstrated that poor soil and water quality exist, water supply is insufficient to support agricultural crops, and because the project would allow for dry grazing and would require the preparation of a Soil Reclamation Plan and an updated Engineer's Cost Estimate for financial assurances every 5 years, there would be no potential conflict or conversion of land under Williamson Act (or Farmland Security Zone) contracts.

## 2. FLOOD PLAIN FINDINGS:

- A. The project site is within Other Areas Zone X as shown on the National Flood Insurance Program, Flood Insurance Rate Map (FIRM), Map Number 06031C0300C, dated June 16, 2009. There are no development restrictions associated with Area of Minimal Flood Hazard Zone X since these are areas determined to be outside the 0.2 percent annual chance floodplain.

## 3. AIRPORT COMPATIBILITY ZONE FINDINGS:

- A. The project site is not located within an Airport Compatibility Zone.

**BE IT FURTHER RESOLVED**, that based on the above findings, this Commission adopts the Addendum No. 1 to the Initial Study/Mitigated Negative Declaration prepared for Modification No. 1 to Conditional Use Permit No. 19-01 and approves Modification No. 1 to Conditional Use Permit No. 19-01 as proposed, subject to the conditions and exceptions as follows:

**KINGS COUNTY COMMUNITY DEVELOPMENT AGENCY – PLANNING DIVISION** Contact Chuck Kinney of the Kings County Community Development Agency – Planning Division at (559) 852-2674 regarding the following requirements:

1. All proposals of the applicant shall be conditions of approval if not mentioned herein.
2. The site plan for the project is approved in concept. However, it is understood that during the actual design of the project that either of the following minor alterations to the site plan may be necessary: 1) structural alterations; and/or 2) alterations to the location of structures. Any minor alterations shall comply with the following requirements:
  - A. The site shall be developed in substantial compliance with the conceptually-approved site plan. Development of the site shall be considered substantially consistent with the approved conceptual site plan if any minor structural alteration is within ten (10) percent of the square footage shown on the conceptually approved site plan or up to a 2,500-square-foot increase in structural size, whichever is less, and the minor structural alteration complies with coverage standards.
  - B. A minor alteration of the location of a structure shall be considered substantially consistent with the approved conceptual site plan if the new location of the structure complies with all setback requirements for the zone district that the project site is located in.
  - C. Any minor alteration that would make it necessary to modify or change any condition of approval placed on the project would require resubmittal of the application to amend the approval of the Site Plan Review.

- D. No expansion of use, regardless of size, which would increase the projected scale of operations beyond the scope and nature described in this Conditional Use Permit application, will be allowed. Any expansion that is a substantial change from the conceptually-approved site plan will require either an amendment to the approved Conditional Use Permit or a new zoning permit.
3. The development shall comply with all regulations of Development Code No. 668.13, with particular reference to the Exclusive Agricultural (AX) Zone District standards and the General Agricultural (AG-40) Zone District standards contained in Article 4, the Agricultural Overlay Zone standards listed in Article 10, and the standards listed for Conditional Use Permits contained in Article 17.
4. All signage must comply with Section 418.C of the *Kings County Development Code*. Signs shall be located outside of the public right-of-way and shall not be located within a traffic safety visibility area if over three (3) feet in height. Unless a different setback is specified for a particular zone district, the minimum setback distance for all signs over three (3) feet in height shall be ten (10) feet from property lines.
5. Any exterior lighting shall be hooded so as to be directed only on-site. Pursuant to Section 418.E of the *Kings County Development Code*, exterior lighting shall be designed to be compatible with the architectural and landscape design of the project.
- A. All new proposed uses shall preserve the existing nighttime environment by ensuring that the outdoor lighting for the use is so arranged and/or hooded as to reflect light away from adjoining properties.
- B. New lighting that is part of residential, commercial, industrial, or recreational development shall be oriented away from sensitive uses, and shall be hooded, shielded, and located to direct light pools downward and prevent glare.
- C. To achieve the desired lighting level for parking and pedestrian areas, the use of more short, low intensity fixtures is encouraged over the use of a few tall fixtures that illuminate large areas.
6. Pursuant to Section 418.F of the *Kings County Development Code*, all property owners and residents in Kings County are highly encouraged to participate in resource conservation efforts to help preserve and conserve dwindling natural resources. All property owners proposing new development within the agricultural zoning districts are encouraged to implement the following resource conservation measures, as applicable, as part of their development proposals.
- A. Water Meters: The installation of water meters to encourage water conservation.
- B. Stormwater Drainage: The integration of onsite stormwater drainage features such as small catch basins, rain gardens, and landscape depression basins into site plans to increase the stormwater detention.
- C. Drought Tolerant Landscaping: The integration of drought tolerant landscaping and



conservation fixtures with the structures to reduce the average per capita water use.

7. Off-Street parking shall be provided in accordance with Article 13, Table 13-1 of the *Kings County Development Code* and shall be installed in accordance with *Kings County Improvement Standards*. (Note: Accessible parking requirements are listed under Building Division Requirements 8 and 9 below.)
8. All drive approaches, parking areas, aisles, and driveways shall be provided prior to either: (1) initial occupancy of the site; or (2) the final inspection. (Note: The applicant is responsible for contacting the Building Division to request a final inspection of the structure prior to startup of the operation.)
9. Pursuant to Section 303.G of the *Kings County Improvement Standards* the parking area at the O&M building shall be surfaced and maintained so as to provide a durable, dustless surface. Section 303.G and Drawing 3036 of the *Kings County Improvement Standards* requires two (2) inches of Type "B" Asphalt Concrete over four (4) inches of Class 2 aggregate base over six (6) inches of R-50 Native @ 95% compaction under "Heavy Use Conditions." All aisles and driveways shall be surfaced and maintained so as to provide a durable, dustless surface pursuant to the "Rural Alternative." Section 303.G. and Drawing 3036 of the *Kings County Improvement Standards* requires Cutback Asphalt over four (4) inches of Decomposed Granite under the "Rural Alternative." (Note: The Kings County Planning Commission hereby reserves the right to require additional improvements to the parking area and driveway if at any time in the future the decomposed granite surface deteriorates and either a dust problem is created due vehicles driving on the decomposed granite surface, or a mud problem is created due to vehicles tracking mud onto County Roads.)
10. Accessible parking spaces shall be located so as to minimize the travel distance to the use's primary entrances for access. Required off street accessible parking spaces, and standards for those spaces, shall meet state standards.
11. Pursuant to Article 4, Section 418.B.5 of the *Kings County Development Code* the following are required for landscaping in Agricultural Zoning District:
  - A. In all Agricultural Zoning Districts, as stated in Article 15, all new construction and rehabilitated landscape projects installed after January 1, 2010 are subject to and shall comply with the "California Model Water Efficient Landscape Ordinance".
12. Pursuant to Section 418.B of the *Kings County Development Code*, the project shall comply with the following requirements pertaining to fencing and gates:
  - A. Fences, Walls, and Hedges exceeding six feet in height shall be permitted except that fences, walls, and hedges shall not exceed three feet in height within a Traffic Safety Visibility Area as defined in Article 25 of this Development Code.



B. Gates shall be permitted as follows:

- 1) Gates which are used for the primary vehicular ingress and egress and which are opened and closed manually shall be setback so that the greater of the following distances are met from the property line being used for access:
    - a. A minimum distance of 20 feet.
    - b. A distance sufficient to ensure that vehicles used for a permitted use requiring a Site Plan Review or Conditional Use permit are able to pull completely onto their property.
  - 2) Gates used for the primary vehicular ingress and egress and which are opened and closed electronically with a remote control may be located within any portion of the property being used for access to a driveway provided that:
    - a. The property owner/occupant shall obtain a building permit from the building department for the installation of the electric gate operating mechanism and wiring. The property owner/occupant must also request and obtain a final inspection for the assigned building permit and demonstrate operation of the mechanism using the remote.
    - b. The gate must be operational at all times using a remote control device that allows the property owner/occupant to open and close the gate to enter the driveway area without exiting the vehicle.
    - c. At any time that the gate is not operational using the remote control device the gate must either be locked in the open position or it must be removed entirely.
  - 3) Access gates to property which are not the primary vehicular ingress and egress such as an access gate to a rear yard to allow the parking of an RV, boat or similar use or for equipment access to be used in maintenance of the property do not require additional setback from the property line. Secondary access gates shall have locking mechanisms accessible only from the interior side of the gate.
13. All open and unlandscaped portions of the lot shall be maintained in good condition, free from weeds, dust, trash and debris.
14. The minimum yard requirements from property line to a structure shall be as follows:
- A. The minimum front yard setback for occupied structures shall be not less than fifty (50) feet from the public road right-of-way line or the property line if not fronting on a public road right-of-way. The minimum front yard setback for non-occupied uses shall be not less than thirty-five (35) feet from the public road right-of-way or property line if not fronting on a public road right-of-way.
  - B. The minimum side yard setback shall be ten (10) feet from the side property line for interior sites. The minimum side yard setback shall be twenty (20) feet from the public

road right-of-way line on the street side of a corner site.

- C. The minimum rear yard setback shall be ten (10) feet from the rear property line.
15. The minimum distance between structures shall be ten (10) feet.
  16. The applicant shall develop and submit a pest management plan and weed abatement plan to the Kings County Community Development Agency for review and approval which establishes set action thresholds, identify pests, specify prevention methods as a first course of action, specify control methods as a second course of action, and establish a quantitative performance goal of nuisance reduction to adjacent farmland. Rodenticide, if used, shall be selected and used in a manner that minimizes impacts to protected biological species.
  17. The applicant shall develop and submit a Solid Waste Management Plan to the Kings County Community Development Agency for review and approval which establishes action items and specific control methods to ensure that: (1) The non-hazardous waste generated during construction and operation shall be segregated on-site for recycling or disposal at a Class III landfill; and (2) Hazardous wastes generated during project construction and operation shall be either recycled or disposed of at a Class I disposal facility, as required.
  18. Prior to the issuance of a building permit, the applicant shall submit a Soil Reclamation Plan for review and approval by Community Development Agency staff, in accordance with MM AG-2.
  19. Prior to the issuance of a building permit, the applicant shall post a performance bond or similar instrument to ensure completion of the activities under the Reclamation Plan, in accordance with MM AG-3.
  20. All mitigation measures in the Mitigation Monitoring and Reporting Plan (MMRP), as modified, pertain to Modification No. 1 to CUP No. 19-01, and are adopted as conditions of this approval, and included in Modification No.1 to the Conditional Use Permit.
  21. The weed abatement plan shall contain specific provisions to address Russian Thistle (also known as tumbleweed). The weed abatement plan shall also contain specific provisions requiring that weeds be addressed on an annual basis (prior to reaching maturity and prior to producing seeds) on the entire property that the project site is located on, the perimeter fence line, the area outside the perimeter fence to all adjacent property lines, and the area outside the perimeter fence to the adjacent County road shoulder.
  22. The applicant shall comply with all requirements of, and obtain any necessary permits from, the San Joaquin Valley Air Pollution Control District (SJVAPCD). Questions concerning SJVAPCD requirements should be direct to Georgia Stewart at (559) 230-5937.
  23. The applicant shall comply with all requirements of, and obtain any necessary permits from, the California Regional Water Quality Control Board (CRWQCB). Questions concerning CRWQCB requirements should be direct to David Sholes at (559) 445-6279.
  24. The applicant shall comply with all adopted rules and regulations of the Kings County Public Works Department, Fire Department, and Department of Environmental Health Services, and all

other local and state regulatory agencies.

25. Pursuant to Section 14-38(d) of the *Kings County Code of Ordinances*, a “Notice of Disclosure and Acknowledgment of Agricultural Land Use Protection and Right to Farm Policies of the County of Kings” shall be signed, notarized, and recorded.
26. Pursuant to Section 66020(d)(1) of the *California Government Code*, the owner is hereby notified that the 90-day approval period in which the applicant may protest the imposition of fees, dedications, reservations, or other exactions, begins on the date that this resolution is adopted.
27. Sales, use, or transactions tax may apply to business activities on the site. The applicant may seek written advice regarding the application of tax to your particular business by writing to the nearest State Board of Equalization office. For general information, please call the Board of Equalization at 1-800-400-7115.
28. Within eight (8) days following the date of the decision of the Kings County Planning Commission, the decision may be appealed to the Kings County Board of Supervisors. The appeal shall be filed with the Clerk of the Board of Supervisors.
29. This Conditional Use Permit shall lapse and shall become null and void three (3) years following the date that the Conditional Use Permit became effective, unless prior to the expiration of three (3) years the proposed use has been established. A Conditional Use Permit involving construction shall lapse and shall become null and void three (3) years following the date that the Conditional Use Permit became effective, unless prior to the expiration of three (3) years a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site that was subject of the Conditional Use Permit application.
30. This Conditional Use Permit may be renewed for additional periods of time, if an application (by letter) for renewal of the Conditional Use Permit is filed with the Planning Commission prior to the permit’s expiration date.
31. This approved conditional use permit shall run with the land and shall continue to be valid upon change of ownership of the site which was the subject of the conditional use permit approval.
32. This permit shall become effective upon the expiration of eight (8) days following the date on which the permit was granted unless the Board of Supervisors shall act to review the decision of the Planning Commission.

**BE IT FURTHER RESOLVED** that the following departments’ and agencies’ have listed requirements, standards, and regulations that must be met under those departments’ and agencies’ jurisdiction. The Planning Commission has no authority to modify, amend, or delete any of these requirements, standards, and regulations, but lists them here as information to the applicant. Appeals for relief of these standards and regulations must be made through that department’s or agency’s procedures, not through the Development Code procedures. However, failure of the applicant to comply with these other departments’ and agencies’ requirements, standards, and regulations is a violation of this conditional use permit and could result in revocation of this conditional use permit.



**KINGS COUNTY COMMUNITY DEVELOPMENT AGENCY - BUILDING DIVISION** Contact Darren Verdegaal at the Kings County Community Development Agency - Building Division at (559) 852-2683, regarding the following requirements:

1. Building permits must be obtained from the Building Division of the Kings County Community Development Agency for any structures, plumbing, electrical, or mechanical work.
2. Failure to obtain a building permit for any structure, prior to commencing construction, which requires a building permit, will result in the payment of a double fee. Payment of such double fee shall not relieve any person from fully complying with the requirements of Kings County Code of Ordinances, Chapter 5 in the execution of the work or from any other penalties prescribed therein.
3. A complete set of plans and calculations shall be required for all work proposed and required by this application. The plans shall be complete, legible and accurate to the satisfaction of the Building Official. Plans and calculations shall be submitted digitally to [kcgcbuilding@co.kings.ca.us](mailto:kcgcbuilding@co.kings.ca.us).
4. All special inspection reports shall be provided to the Building Division prior to requesting a final inspection.
5. The applicant is responsible for contacting the Building Division to request a final inspection of the structures prior to occupying the structures and prior to startup of the operation. No building or structure shall be used or occupied until the Building Division has issued a Certificate of Occupancy.
6. All drive approaches and durable dustless surfaces shall be installed prior to the final inspection and maintained as per County Standards.
7. If the facility will have employees on-site for maintenance of the system an accessible restroom shall be provided and shall comply with Section 1115B of the California Building Code. This may be accomplished by either construction of a permanent structure or use of a chemical toilet with a regular maintenance schedule.
8. Pursuant to Section 1129B of the California Building Code, one (1) van accessible parking space, allowing room for individuals in wheelchairs, on braces or crutches to get in and out of an automobile onto a level surface, suitable for wheeling and walking shall be provided. The parking space shall be 9 feet x 20 feet with an 8-foot wide loading and unloading aisle placed on the side opposite the driver's side. The surfacing of the parking space, loading and unloading aisle and the accessible path from the space to the entrance of the building shall be either asphalt concrete or concrete.
9. The development shall comply with all applicable Americans with Disabilities Act (ADA) requirements, especially Section 1127B of the California Building Code, which states that site development and grading shall be designed to provide access to all entrances and exterior ground-floor exits, and access to normal paths of travel. The accessible route of travel shall be the most practical direct route between accessible building entrances, accessible site facilities and the accessible entrance to the site, including but not limited to access from the accessible parking space to accessible building entrances.



10. A soils report, prepared by a qualified soils engineer, shall be provided to the Building Division prior to issuance of building permits.
11. The facility shall meet the requirements of the State of California Model Water Efficient Landscape Ordinance. Landscape and irrigation plans shall be provided to the Community Development Agency for review and approval prior to building permit issuance.
12. All construction shall conform to the latest adopted edition of the California Building Standards Code which consists of the California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, and California Energy Code, California Fire Code and California Green Building Standards Code.
13. A septic system design, prepared by a qualified soils engineer, shall be provided to the Building Division prior to issuance of building permits.
14. School fees based on square footage of building shall be added to the cost of the building permit, unless the school district provides an exemption from the school fees.
15. The site, as well as the buildings, shall be made accessible and usable by the disabled according to the *California Building Code Chapter 11B*.
16. The tenant, lessee and/or owner are responsible for compliance with the Americans with Disabilities Act, ADA. By federal law the facility shall be made accessible to the highest degree possible.
17. Public Facilities Impact Fees for the building shall be payable at the time of the issuance of the building permit.

**KINGS COUNTY PUBLIC WORKS DEPARTMENT** Contact Mike Hawkins of the Kings County Public Works Department at (559) 852-2708 regarding the following requirements:

1. All requirements required hereafter shall conform to the Kings County Improvement Standards.
2. All other alternatives to Public Works requirements must be approved by the Kings County Public Works Department.
3. That access to the site from a public road must be provided, and must be approved by the Kings County Public Works Department.
4. The applicant shall obtain an encroachment permit from the Kings County Public Works Department.
5. The applicant shall provide asphalt concrete drive approach(es).
6. Traffic Ingress and egress shall be per site plan.

7. Drive approaches shall be constructed in accordance with Section 205 of the *Kings County Improvement Standards* and shall be 2.5 inches of asphalt concrete over 10 inches of Class 2 Base Rock from the edge of roadway to the gate.
8. Durable and dustless surfacing shall be constructed for all roads constructed on site.
9. All drainage shall be contained on-site.
10. Perimeter fencing shall be placed outside of the County right-of-way not closer than 1 foot to the Right-of-Way line.
11. No private overhead lines shall be placed within the right-of-way.
12. Gates at access points shall be indented per the Kings County Development Code.
13. Applicant/Owner shall maintain fence line and adjacent County road shoulder in a weed free condition.
14. Applicant/Owner shall provide a video documentation of County roadway conditions for paths of travel used with truck traffic bringing materials to the site prior to any construction activities. Applicant/Owner shall patch any potholes and repair any edge pavement failures or road shoulder damage that is a result of the project construction/decommissioning phases as directed by County Public Works.
15. Applicant/Owner shall provide street light on a timber pole per County Standards to be placed on the entrance to access road. Provide for a 4,000 Kelvin, 120 or 139 watt LED street light on standard wood pole to be maintained and paid for by the applicant/owner at the entrance to the site.
16. Applicant/Owner shall design and construct all improvements necessary to provide for the safe travel of traffic on Nevada Avenue at and approaching access points to site. Primary concerns shall include the mitigation of thru traffic and vehicles turning left or right off of Nevada Avenue into the solar site during the construction phase. Submit engineered improvement drawings for this work to the public works department for review and approval.

**KINGS COUNTY FIRE DEPARTMENT** Contact Rick Levy of the Kings County Fire Department at (559) 852-2885 regarding the following requirements:

1. Applicant must submit three (3) sets of 24 x 36 inch plans. All plans shall comply with the California Fire Code and all regulations of the Kings County Fire Department.
2. Project location, including the full legal address of the facility, and building number(s) if applicable; tract or parcel number.
3. The contractor's name, telephone number, address and California State contractor's license number and classification.



- a. Identify the fire extinguisher locations, type and size, mounting style and height above finished floor. Must have a California State Fire Marshal service tag affixed to them.
- b. Show all roadways. Show the current property vehicle access points as well as the proposed vehicle access points for this project.
- c. Show the location and width of the fire apparatus access lanes.

**Additional Requirements.** The following additional requirements may be needed in order to obtain approval by the Kings County Fire Department of an application for a permit to build a photovoltaic solar panel facility. The Kings County Fire Department reserves the right to amend existing comments or requirements or add additional comments or requirements depending upon the hazards involved with an individual project(s).

**NOTE - Satisfying the below requirements does not automatically mean your plans will be approved.**

1. Access Roads

- a) The engineering designs of all life safety and fire suppression roads shall be reviewed by the Kings County Public Works Department and approved by KCFD.
- b) Life safety and fire suppression access roads shall be not less than 20 feet in width around the perimeter of the site and shall include interior fire access roads of not less than 20 feet in width that are spaced so that there is not greater than 400 feet in separation between fire access roads on the interior of the site.
- c) Life safety and fire suppression access roads shall be designed, engineered, and maintained to be an all-weather surface capable of supporting the imposed loads of a sixty-five thousand (65,000) pound fire apparatus with a maximum grade of 12 percent.
- d) There shall be an unobstructed vertical clearance of 13 feet 6 inches above all life safety and fire suppression access roads.
- e) If an access road is a dead end road, the access road shall include either a 50 foot radius at the end of the road or other KCFD approved turn around space.
- f) There shall be a minimum of 4 feet of separation between rows to allow access for fire suppression personnel and equipment.
- g) Facilities having a gross building area of more than 62,000 square feet shall be provided with two separate and approved Life Safety and Fire Suppression access roads/entrances. It should be noted that if the developer chooses to fund the purchase of an all-terrain firefighting vehicle this requirement is still needed since due to the size of the structure more than one firefighting vehicle would be needed.
- h) At the sole discretion of the Kings County Fire Chief or his or her designee, an applicant may request to satisfy requirement c) above regarding surfacing of interior fire access roads by:

- 1) Providing funds sufficient to purchase an all-terrain firefighting vehicle of a model, cost, conditions, and equipment as specified by the Kings County Fire Department.
- 2) Providing funds to be held in a special account to pay for the purchase, maintenance, repair, or replacement of an all-terrain firefighting vehicle as set forth, above. The amount of funds to be provided shall be set by the Kings County Fire Department as an amount equal to the pro rata share of the cost of purchasing a new vehicle based upon the acreage of the solar project, as well as any other factors deemed pertinent including, but not limited to, the project's proximity to other solar projects, agricultural or residential developments, or fire stations.

## 2. Fire Suppression Systems and Access to Water

- a) Any fire suppression systems will need to meet all applicable State and Kings County Fire Department requirements.
- b) The fire protection system, including fixed and portable extinguishing systems, must be up to date on required annual fire inspections and tests and be approved by the Kings County Fire Department.
- c) The Fire Department may require a supply of firefighting water available in a storage tank(s) on site. The amount of water required and any required connections shall be in accordance with NFPA 1142 and the Kings County Fire Department. The tank shall be equipped with a pressure system and float valve device to keep the tank full at all times.

## 3. Gates and Address Numbers

- a) Four-inch reflective address numbers at the main street side entrance shall be installed pursuant to Section 505.1 of the California Fire code.
- b) Where gates are provided, a means of Fire Department entry shall be provided. Manual gates shall have a Fire Department Knox key lock provided. Powered gates shall be provided with a Fire Department Knox access override system. Gates shall open inward and gate entrances shall be 4 feet wider than the lane serving the gate and be located a minimum of 30 feet from the roadway to allow a vehicle to stop without obstructing traffic. A Knox pad lock shall be placed on chained gates or Knox box with gate access keys mounted at the main entrance for Fire Department access.

## 4. On-site Fire Extinguishers

- a) There will be a minimum rated 4A60BC Fire Extinguisher located at each inverter pad and transformer pad, mounted on a bollard protected from the weather or in a cabinet. All extinguishers shall be mounted with securely fastened hangers so that the weight of the Extinguisher is adequately supported, and at a height compliant with the California Fire Code. Additional extinguishers may be required based upon special hazards or conditions. These extinguishers must be maintained per California Fire Code.



b) Minimum of one fire extinguisher shall be on site during construction of the facility. The required number and type of extinguishers on site during construction will vary by size of the facility.

c) Employees shall be familiar with the use of fire safety equipment.

5. On-Site Battery Storage Units or Devices

The addition of battery storage units or devices will trigger additional Fire Department requirements dependent upon the battery technology and design selection employed. Requirements may include but shall not be limited to, the purchase of specialized hazmat vehicles and equipment along with mandated training of Fire Department personnel.

6. Training regarding interruption of electrical power supply

Subject to Fire Marshal approval, applicant shall provide training for fire personnel to be able to interrupt electrical power safely for emergency incidents requiring fire suppression or rescue activities.

7. Maintenance of Site

a) Areas within the solar array must be maintained free of flammable materials; annual vegetation must be maintained at a height of less than four inches.

b) A clear, brush-free area of ten feet (thirty feet in the SRA) shall be required around ground-mounted photovoltaic arrays. This area shall also be cleared of all dry grass, weeds, rubbish, trash, litter, tires, tree stumps, and other waste material, or any flammable material.

**KINGS COUNTY HEALTH DEPARTMENT** Contact Troy Hommerding of the Kings County Department of Environmental Health Services at (559) 852-2627 regarding the following requirements:

1. A public drinking water permit is required from facilities that meet the definition of a small public water systems as per Section 116275 of the California Safe Drinking Water Act which is contained in Part 12, Chapter 4 of the California Health and Safety Code. Facilities that serve 5 or more residential units or provide water to 25 or more people for 60 or more days per year fall under this requirement. A completed and approved application with technical report is required by the Kings County Department of Public Health – Division of Environmental Health Services and the State Water Regional Control Board prior to operating a public water system. However, prior to submitting an application package the proponent shall consider Section 116527 of the Health and Safety Code, and Section 106.4 to the Water Code, relating to drinking water. Please contact our office for further assistance at (559)584-1411.
2. Any plumbing fixtures, such as hand wash sinks, used by employees for personal use must have bacteriologically safe water. Sinks should be limited to handwashing only and should be posted with signage indicating that the water is suitable for washing and general cleaning, but not recommended for drinking. Bottled water or other potable source must be provided for drinking. If drinking water will be provided to 25 employees or more for 60 days or more over a calendar year,

then the facility may require a public water system permit from our office. Portable toilets must be serviced at an adequate frequency so as not to create nuisance conditions.

3. Three copies of engineered construction plans for the septic system, including percolation test results, must be provided to our office for review and approval prior to construction. The application form is available at our website <http://www.countyofkings.com/departments/health-welfare/environmental-health-services-1>
4. If hazardous materials will remain on site in quantities equal to or greater than 55 gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of a gas, then the facility will be required to file and maintain a Hazardous Materials Business Plan with our office. Applicable forms are available at our website at [www.countyofkings.com/health/ehs](http://www.countyofkings.com/health/ehs). Any hazardous wastes generated on site must be managed appropriately.
5. Any quantities of hazardous wastes generated by the facility operation must be managed in accordance with Federal, State, and local laws and regulations. Hazardous wastes cannot be disposed of into the municipal waste stream or onsite sewage disposal system. The owner/operator must contact our office at with any questions regarding proper management and reporting of hazardous wastes associated with this operation.
6. Given the proximity of NAS Lemoore and frequent air traffic over the site, as well as adjacent highway and road traffic, the sites must be designed and constructed so as to minimize light reflectivity that might be hazardous for aircraft or vehicles.
7. Portable toilets must be serviced at an adequate frequency so as not to create nuisance conditions.
8. As per the Kings County Public Health Officer, *Coccidioides immitis*, the fungus that causes valley fever, a serious and potentially long-term respiratory illness, is endemic in the soils of Kings County. Construction activities that disturb soils containing the spores of the fungus can put workers and the nearby public at risk. Effective dust control must be maintained on the job site at all times in order to reduce the risk of valley fever to workers and nearby residents. More information regarding the prevention of work related valley fever is available at [www.cdph.ca.gov/programs/hesis/Documents/CocciFact.pdf](http://www.cdph.ca.gov/programs/hesis/Documents/CocciFact.pdf) and <http://www.cdph.ca.gov/programs/ohb/Documents/OccCocci.pdf>. Contact the San Joaquin Valley Air Pollution Control District for more information on dust control techniques.

**SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT:** Contact Georgia Stewart of the SJVAPCD at (559) 230-5800 concerning the following requirements.

1. The applicant shall comply with all San Joaquin Valley Air Pollution Control District regulations including but not limited to Rules 8011 through 8081 (Fugitive Dust Prohibitions) and Rule 9510 (Indirect Source Review) and Regulation.
2. See attached letter.



**Pacific Gas and Electric Company:** Contact PG&E Plan Review Team at (877) 259-8314 concerning the following requirements.

- 1. See attached letter.

The foregoing Resolution was adopted on a motion by Commissioner Maciel and seconded by Commissioner Dias, at a special meeting held on June 7, 2021, by the following vote:

AYES: COMMISSIONERS Maciel, Dias, Bryant, Jones  
NOES: COMMISSIONERS  
ABSTAIN: COMMISSIONERS  
ABSENT: COMMISSIONERS Lynch

KINGS COUNTY PLANNING COMMISSION

  
Riley Jones, Chairperson

WITNESS, my hand this 7<sup>th</sup> day of June, 2021.

By DIRECTION:

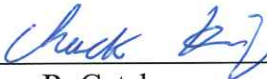
  
Gregory R. Gatzka  
Secretary to the Commission

Exhibit A: Mitigation Monitoring & Reporting Program (MMRP)

- cc: Kings County Board of Supervisors  
Kings County Counsel  
Kings County Community Development Agency – Building Division  
Kings County Fire Department  
Kings County Public Works Department  
Kings County Health Department, Division of Environmental Health Services

**MITIGATION MONITORING AND REPORTING PROGRAM**

**CHESTNUT SOLAR PROJECT**

**CUP 19-01**

**COUNTY OF KINGS, CALIFORNIA**

**OCTOBER 2019**

**(REVISED MAY 2021)**



# MITIGATION MONITORING AND REPORTING PROGRAM

## Chestnut Solar Project CUP 19-01

Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.2. AGRICULTURE AND FORESTRY RESOURCES</b></p> <p><b>Mitigation Measure AG-1: Agricultural Management Plan.</b> Prior to the issuance of a building permit, the applicant shall submit to Kings County an Agricultural Management Plan (AMP) that provides for the ongoing agricultural productivity of the entire project site for the life of the project. The AMP shall specify that at least 90 percent of this area of the site shall be vegetated with grasses and forbs and shall be managed for dry farm seasonal sheep grazing. The AMP shall include specific provisions for soil preparation and revegetation including specifications for a seed mix which is appropriate to the soil and climatic conditions in the absence of irrigation, methods of avoiding invasive species, and a list of acceptable vegetation that meets the dietary needs of sheep. The AMP shall include detailed provisions to ensure the successful establishment of the planned vegetative cover, and shall identify appropriate maintenance activities, including conditions under which herbicides may be used, and particularly the identification and selection of herbicides that are non-toxic to livestock and wildlife. The AMP shall also prescribe the management practices for sheep grazing. The AMP shall include provisions for ongoing monitoring and annual reporting of agricultural activity on the site to the Kings County Community Development Agency. The AMP shall also comply with the requirements of the Kings County Development Code related to weed abatement and pest control. [Note: This MIM would not be required to be implemented in the event that the Williamson Act contracts on the project site are cancelled or otherwise determined to be not in effect and/or if re-enrollment of lands not currently under contract is found not to be required under Government Code Section 51295.]</p>	<p><u>Responsible Party:</u> Applicant/Operator</p> <p><u>Actions:</u> Prior to Building Permit Issuance: Prepare and submit AMP to Kings County CDA.</p> <p><u>During Project Operation:</u> Implement AMP as approved by Kings County CDA.</p>	<p><u>Monitoring Agency:</u> Kings County Community Development Agency (CDA).</p> <p><u>Actions:</u> Prior to Building Permit Issuance: Verify that AMP is complete and in compliance with County requirements.</p> <p><u>During Project Operation:</u> Field inspections to verify implementation of AMP as approved.</p>	
<p><b>Mitigation Measure AG-2: Soil Reclamation Plan.</b> Prior to the issuance of a building permit, the applicant shall submit, for review and approval by the Kings County Community Development Agency, a Soil Reclamation Plan (Plan) for the restoration of the entire project site at the end of the project's useful life. The Plan shall contain an analysis of general pre-construction conditions of the project site, and the site shall be photographically documented by the applicant prior to the start of construction. The Plan shall contain specific measures to restore the soil to approximate its pre-project condition, including: (1) removal of all above-ground and below-ground project fixtures, equipment, and non-agricultural driveways; (2) tilling to restore the sub-grade material to a density and depth consistent with its pre-project condition; (3) revegetation using a Kings County-approved grasses and forbs seed mixture designed to maximize revegetation with noninvasive species shall be broadcast or drilled across the project site; and (Continued on next page.)</p>	<p><u>Responsible Party:</u> Applicant/Operator</p> <p><u>Actions:</u> Prior to Building Permit Issuance: Prepare and submit Soil Reclamation Plan to Kings County CDA.</p>	<p><u>Monitoring Agency:</u> Kings County CDA.</p> <p><u>Actions:</u> Prior to Building Permit Issuance: Verify that Soil Reclamation Plan is complete and in compliance with County requirements.</p>	

# MITIGATION MONITORING AND REPORTING PROGRAM

## Chestnut Solar Project CUP 19-01

Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p style="text-align: center;"><b>4.2. AGRICULTURE AND FORESTRY RESOURCES</b></p> <p style="text-align: center;"><i>(Continued from preceding page.)</i></p> <p>(4) application of weed-free mulch spread, as needed, to stabilize the soil until germination occurs and young plants are established to facilitate moisture retention in the soil. Whether the project area has been restored to pre-construction conditions would be assessed by Kings County staff until the entire project area has been restored to equivalent conditions. All waste shall be recycled and disposed of in compliance with applicable law. The applicant shall verify the completion of reclamation within 18 months after expiration of the project use permit with Planning Division staff.</p>			
<p><b>Mitigation Measure AG-3: Financial Assurance.</b> Prior to the issuance of a building permit, the applicant shall either post a performance or cash bond, submit a Certificate of Deposit, submit a letter of credit, or provide such other financial assurances acceptable to the County, in an amount provided in an Engineer's Cost Estimate, approved by the Kings County Community Development Agency, to ensure completion of the activities under the Soil Reclamation Plan. Every 5 years from the dated of completion of construction of the project, the applicant shall submit an updated Engineer's Cost Estimate for financial assurances for the Plan, which will be reviewed every 5 years by the Kings County Community Development Agency to determine if amount of the assurances is sufficient to implement the Plan. The amount of the assurances must be adjusted if, during the five-year review, the amount is determined to be insufficient to implement the Plan.</p>	<p><b>Responsible Party:</b> Applicant/Operator</p> <p><b>Actions:</b> Prior to Building Permit Issuance: Submit financial assurance to Kings County CDA.</p> <p><b>Every Five Years:</b> Prepare and submit revised Engineer's Cost Estimate, and submitted adjusted financial assurance to Kings County CDA.</p>	<p><b>Monitoring Agency:</b> Kings County CDA.</p> <p><b>Actions:</b> Prior to Building Permit Issuance: Verify that financial acceptable assurance has been provided.</p> <p><b>Every Five Years:</b> Verify completion of revised Engineer's Cost Estimate and confirm adjustment of the amount of assurance.</p>	
<p style="text-align: center;"><b>4.3. AIR QUALITY</b></p>			
<p><b>Mitigation Measure AQ-1:</b> All off-road diesel construction equipment greater than 25 horsepower and operating at the site for more than 20 hours shall meet U.S. EPA Tier 3 engine standards for emissions of nitrogen oxides and particulate matter.</p>	<p><b>Responsible Party:</b> Applicant/Contractor</p> <p><b>Actions:</b> During Project Construction: Utilize Tier 3 equipment at a minimum.</p>	<p><b>Monitoring Agency:</b> Kings County Public Works Department.</p> <p><b>Actions:</b> During Project Construction: Field inspections to verify utilization of Tier 3 equipment.</p>	

# MITIGATION MONITORING AND REPORTING PROGRAM

## Chestnut Solar Project CUP 19-01

Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.4 BIOLOGICAL RESOURCES</b></p> <p><b>Mitigation Measure BIO-1: San Joaquin Kit Fox Protection.</b> In order to minimize the potential for impacts to San Joaquin kit fox, the following measures shall be implemented in conjunction with the construction of the Solar Blue Project:</p>			
<p>a. <u>Pre-construction Surveys.</u> Pre-construction surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance, construction activities, and/or any project activity likely to impact the San Joaquin kit fox. These surveys shall be conducted in accordance with the "U.S. Fish and Wildlife Service Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior To or During Ground Disturbance" (USFWS 2011). The primary objective is to identify kit fox habitat features (e.g., potential dens and refugia) on the project site and evaluate their use by San Joaquin kit fox. If an active kit fox den is detected within or immediately adjacent to the area of work, the USFWS shall be contacted immediately to determine the best course of action.</p>	<p>Responsible Party: Applicant/Contractor/ Operator</p> <p><u>Actions:</u></p> <p>Prior to Construction: 1) Authorize qualified biologist to conduct preconstruction surveys; 2) If kit fox found on or near site, undertake avoidance measures and notify USFWS and CDFW; 3) Direct qualified biologist to conduct employee education program;</p> <p>(Continued)</p>	<p>Monitoring Agency: Kings County CDA.</p> <p><u>Actions:</u></p> <p>Prior to Construction: 1) Verify completion of pre-construction surveys; 2) Verify that avoidance measures have been implemented if kit fox found on site; 3) Verify completion of employee education prior to ground disturbing activities.</p> <p>(Continued)</p>	
<p>b. <u>Kit Fox Avoidance Measures.</u> Should San Joaquin kit fox be found using the Solar Blue Project site or access corridor during preconstruction surveys, the construction activity shall avoid the habitat occupied by kit fox and the Sacramento Field Office of the USFWS and the Fresno Field Office of CDFW shall be notified.</p>			
<p>c. <u>Minimization of Potential Disturbance to Kit Fox.</u> Whether or not kit foxes are found to be present, all permanent and temporary construction activities and other types of project-related activities shall be carried out in a manner that minimizes disturbance to San Joaquin kit fox. Minimization measures include, but are not limited to: restriction of project-related vehicle traffic to established roads, construction areas, and other designated areas; inspection and covering of structures (e.g., pipes), as well as installation of escape structures, to prevent the inadvertent entrapment of San Joaquin kit fox; restriction of rodenticide and herbicide use; and proper disposal of food items and trash. The full list of protection measures required by the USFWS during construction and operation contained in USFWS Standardized Recommendations (USFWS 2011), and is presented in Table BIO-1. The protection measures set forth in Table BIO-1 are fully incorporated into this mitigation measure by reference. (Continued on next page.)</p>			

# MITIGATION MONITORING AND REPORTING PROGRAM

## Chestnut Solar Project CUP 19-01

Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.4 BIOLOGICAL RESOURCES (CONTD)</b></p> <p><i>(Continued from preceding page.)</i></p>			
<p>d. <u>Employee Education Program.</u> Prior to the start of construction, the applicant shall retain a qualified biologist to conduct an on-site training session to educate all construction staff on the San Joaquin kit fox. This training shall include a description of the San Joaquin kit fox, a brief summary of their biology; and a list of minimization measures and instructions on what to do if a San Joaquin kit fox is observed within the Solar Blue Project site and access corridor.</p>	<p><u>During Construction:</u></p> <ol style="list-style-type: none"> <li>1) Install wildlife-friendly fencing;</li> <li>2) Implement disturbance minimization measures, as specified;</li> <li>3) Report any kit fox mortalities as specified.</li> </ol>	<p><u>During Construction:</u></p> <ol style="list-style-type: none"> <li>1) Conduct field inspections to verify installation of wildlife friendly fencing;</li> <li>2) Conduct field inspections to confirm disturbance minimization measures have been implemented;</li> <li>3) Verify that any kit fox mortalities have been reported as required.</li> </ol>	
<p>e. <u>Mortality Reporting.</u> The Sacramento Field Office of the USFWS and the Fresno Field Office of CDFW will be notified in writing within three working days in case of the accidental death of or injury to a San Joaquin kit fox during project-related activities. Notification must include the date, time, location of the incident or of the finding of a dead or injured animal, and any other pertinent information.</p>	<p><u>During Project Operation:</u></p> <ol style="list-style-type: none"> <li>1) Report any kit fox mortalities as specified.</li> </ol>	<p><u>During Project Operation:</u></p> <ol style="list-style-type: none"> <li>1) Verify that any kit fox mortalities have been reported as required.</li> </ol>	
<p>f. <u>Wildlife-friendly Fencing.</u> The perimeter fencing surrounding each phase of the Solar Blue Project shall consist of wildlife-friendly or permeable fencing that allows San Joaquin kit fox and other wildlife to move through the site unimpeded. The bottom of the perimeter fencing shall be 5 to 7 inches above the ground, as measured from the top of the ground to the lowest point of the fence. The bottom of the fence edges shall be knuckled (wrapped back to form a smooth edge) to allow wildlife to pass through safely. The fencing shall not be electrified.</p>	<p><u>During Project Operation:</u></p> <ol style="list-style-type: none"> <li>1) Report any kit fox mortalities as specified.</li> </ol>	<p><u>During Project Operation:</u></p> <ol style="list-style-type: none"> <li>1) Verify that any kit fox mortalities have been reported as required.</li> </ol>	



# MITIGATION MONITORING AND REPORTING PROGRAM

## Chestnut Solar Project CUP 19-01

### Table BIO-1

#### U.S. FISH AND WILDLIFE SERVICE STANDARDIZED RECOMMENDATIONS FOR PROTECTION OF THE ENDANGERED SAN JOAQUIN KIT FOX PRIOR TO OR DURING GROUND DISTURBANCE CONSTRUCTION AND ON-GOING OPERATIONAL REQUIREMENTS

1. Project-related vehicles should observe a daytime speed limit of 20-mph throughout the site in all project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction should be minimized to the extent possible. However, if it does occur, then the speed limit should be reduced to 10-mph. Off-road traffic outside of designated project areas should be prohibited.
2. To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of a project, all excavated, steep-walled holes or trenches more than 2-feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks shall be installed. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the Service and the California Department of Fish and Wildlife (CDFW) shall be contacted as noted under measure 13 referenced below.
3. Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.
4. All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in securely closed containers and removed at least once a week from a construction or project site.
5. No firearms shall be allowed on the project site.
6. No pets, such as dogs or cats, should be permitted on the project site to prevent harassment, mortality of kit foxes, or destruction of dens.
7. Use of rodenticides and herbicides in project areas should be restricted. This is necessary to prevent primary or secondary poisoning of kit foxes and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and Federal legislation, as well as additional project-related restrictions deemed necessary by the USFWS. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox. A representative shall be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name and telephone number shall be provided to the USFWS.
8. A representative shall be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name and telephone number shall be provided to the USFWS

*(Continued on next page.)*

# MITIGATION MONITORING AND REPORTING PROGRAM

## *Chestnut Solar Project CUP 19-01*

### Table BIO-1 (Cont'd)

#### U.S. FISH AND WILDLIFE SERVICE STANDARDIZED RECOMMENDATIONS FOR PROTECTION OF THE ENDANGERED SAN JOAQUIN KIT FOX PRIOR TO OR DURING GROUND DISTURBANCE CONSTRUCTION AND ON-GOING OPERATIONAL REQUIREMENTS

9. An employee education program should be conducted for any project that has anticipated impacts to kit fox or other endangered species. The program should consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the project. The program should include the following: A description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during project construction and implementation. A fact sheet conveying this information should be prepared for distribution to the previously referenced people and anyone else who may enter the project site.
  10. Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, pipeline corridors, etc., should be re-contoured if necessary, and revegetated to promote restoration of the area to pre-project conditions. An area subject to "temporary" disturbance means any area that is disturbed during the project, but after project completion will not be subject to further disturbance and has the potential to be revegetated. Appropriate methods and plant species used to revegetate such areas should be determined on a site-specific basis in consultation with the USFWS, California Department of Fish and Wildlife (CDFW), and revegetation experts.
  11. In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the USFWS should be contacted for guidance.
  12. Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a San Joaquin kit fox shall immediately report the incident to their representative. This representative shall contact the CDFW immediately in the case of a dead, injured or entrapped kit fox. The CDFW contact for immediate assistance is State Dispatch at (916) 445-0045. They will contact the local warden or Mr. Paul Hoffman, the wildlife biologist, at (530) 934-9309. The USFWS should be contacted at the numbers below.
  13. The Sacramento Fish and Wildlife Office and CDFW shall be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The USFWS contact is the Chief of the Division of Endangered Species, at the addresses and telephone numbers below. The CDFW contact is Mr. Paul Hoffman at 1701 Nimbus Road, Suite A, Rancho Cordova, California 95670, (530) 934-9309.
  14. New sightings of kit fox shall be reported to the California Natural Diversity Database (CNDDB). A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed should also be provided to the Service at the address below.
- Any project-related information required by the Service or questions concerning the above conditions or their implementation may be directed in writing to the U.S. Fish and Wildlife Service at:

Endangered Species Division  
2800 Cottage Way, Suite W2605  
Sacramento, California 95825-1846  
(916) 414-6620 or (916) 414-6600

# MITIGATION MONITORING AND REPORTING PROGRAM

## Chestnut Solar Project CUP 19-01

Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.4 BIOLOGICAL RESOURCES (CONT'D)</b></p> <p><b>Mitigation Measure BIO-2: Protection for Nesting Raptors and Migratory Birds (Including Tricolored Blackbirds).</b> In order to minimize the construction disturbance to active raptor and other migratory bird nests, including tricolored blackbirds, the following measures shall be implemented in conjunction with the construction of the Solar Blue Project:</p>			
<p>a. <b>Pre-construction Surveys.</b> If tree removal, site preparation, grading, or construction is planned to occur within the breeding season (February 1 - August 31, or February 1 – September 15 for tricolored blackbirds), a qualified biologist shall conduct pre-construction surveys for active migratory bird nests within 10 days of the onset of these activities. Pre-construction surveys shall be repeated if construction halts for more than 10 days. If construction activity is planned to commence outside the breeding period, no pre-construction surveys are required for nesting birds and raptors, including tricolored blackbirds.</p>	<p><b>Responsible Party:</b> Applicant/Contractor</p> <p><b>Actions:</b></p> <p><b>Prior to Construction:</b> 1) Authorize qualified biologist to conduct preconstruction surveys; 2) If active nest(s) found on or near site, authorize biologist to monitor nest(s) and notify CDFW, as needed; OR 3) Authorize biologist to establish exclusion zone around nest(s), as needed; 4) Direct qualified biologist to conduct employee education program;</p> <p style="text-align: right;"><i>(Continued)</i></p>	<p><b>Monitoring Agency:</b> Kings County CDA.</p> <p><b>Actions:</b></p> <p><b>Prior to Construction:</b> 1) Verify completion of pre-construction surveys; 2) Verify that nest protection measures have been implemented if nest(s) found on site; 3) Verify completion of employee education prior to ground disturbing activities.</p> <p style="text-align: right;"><i>(Continued)</i></p>	
<p>b. <b>Monitoring Active Nests.</b> Should any active nests be discovered in or near planned construction zones, a qualified biologist shall continuously monitor identified nests for the first 24 hours prior to any construction related activities to establish a behavioral baseline. Once work commences, continuously monitor all nests to detect any behavioral changes as a result of the project. If behavioral changes are observed, stop the work causing that change and consult with the California Department of Fish and Wildlife for additional avoidance and minimization measures.</p>			
<p>c. <b>Exclusion Zones for Active Nests.</b> Alternatively, should any active nests be discovered in or near the planned construction zones, the biologist shall establish a 250-foot construction-free buffer around the nest for non-listed birds, 300-foot buffer for tricolored blackbirds, 500-foot buffer for unlisted raptors, and a half-mile for listed bird species. This buffer shall be identified on the ground with flagging or fencing, and shall be maintained until the biologist has determined that the young have fledged. Variance from these setback distances may be allowed if a qualified biologist provides compelling biological or ecological reason to do so and if CDFW is notified in advance of implementation of a no disturbance buffer variance.</p>			
<p>d. <b>Tailgate Training for Workers.</b> All construction and operations workers on the Solar Blue Project and access corridor shall be trained by a qualified biologist. The tailgate training shall include a description of the Migratory Bird Treaty Act, instructions on what to do if an active nest is located, and the importance of capping pipes and pipe-like structures standing upright in order to avoid birds falling into the pipes and getting stuck.</p>			

# MITIGATION MONITORING AND REPORTING PROGRAM

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Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<b>4.4 BIOLOGICAL RESOURCES (CONT'D)</b>			
<i>(Continued from preceding page.)</i>			
<p>e. <u>Capping of Hollow Poles and Posts.</u> Should any vertical tubes, such as solar mount poles, chain link fencing poles, or any other hollow tubes or poles be utilized on the Solar Blue Project site, the poles shall be capped immediately after installation to prevent entrapment of birds.</p>	<p><u>During Construction:</u> 1) Ensure that all hollow poles and posts are capped.</p>	<p><u>During Construction:</u> 1) Conduct field inspection to confirm capping of poles and posts.</p>	
<p>f. <u>Incidental Take Authorization for Tricolored Blackbird.</u> In the event that a TRBL nesting colony is detected during surveys, and if avoidance of the colony is not feasible, an Incidental Take Permit (ITP) may be required, pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground-disturbing activities. Initiation of the ITP process requires consultation with CDFW regarding implementation.</p>			
<p><b><u>Mitigation Measure BIO-3: Burrowing Owl Protection.</u></b> In order to minimize the potential for impacts to burrowing owls, the following measures shall be implemented, as necessary, in conjunction with the construction of each phase of the Solar Blue Project and access corridor:</p>	<p><u>Responsible Party:</u> Applicant/Contractor</p> <p><u>Actions:</u></p> <p><u>Prior to Construction:</u> 1) Authorize qualified biologist to conduct preconstruction surveys; 2) If active nest(s) found on or near site, authorize to establish exclusion zone(s) around nest(s);</p> <p style="text-align: right;"><i>(Continued)</i></p>	<p><u>Monitoring Agency:</u> Kings County CDA.</p> <p><u>Actions:</u></p> <p><u>Prior to Construction:</u> 1) Verify completion of pre-construction surveys; 2) Conduct field inspection to verify establishment of exclusion zone(s);</p> <p style="text-align: right;"><i>(Continued)</i></p>	
<p>b. <u>Avoidance of Active Nests during Breeding Season.</u> If pre-construction surveys are undertaken during the breeding season (February through August) and active nest burrows are located within or near construction zones, a minimum disturbance-free buffer of 250 feet shall be established around all active owl nests. The specific dimensions of the exclusion zone in each case shall be established by a qualified biologist based on site conditions and the level of intensity of the disturbance activity. The exclusion zones shall be enclosed with temporary fencing, and construction equipment and workers shall not be allowed to enter the enclosed setback areas. These exclusion zones shall remain in place for the duration of the breeding season. After the breeding season (i.e., once all the young have left the nest), passive relocation of any remaining owls may take place, but only under the conditions described below. <i>(Continued on next page.)</i></p>	<p style="text-align: right;"><i>(Continued)</i></p>	<p style="text-align: right;"><i>(Continued)</i></p>	



## MITIGATION MONITORING AND REPORTING PROGRAM

### Chestnut Solar Project CUP 19-01

Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.4 BIOLOGICAL RESOURCES (CONT'D)</b></p> <p><i>(Continued from preceding page.)</i></p>			
<p>c. <u>Avoidance of Occupied Burrows during Non-Breeding Season, and Passive Relocation of Resident Owls.</u> During the non-breeding season (September through January), any burrows occupied by resident owls in areas planned for construction shall be protected by a minimum disturbance-free buffer with a radius of 150 feet around each active burrow. The specific dimensions of the exclusion zone in each case shall be established by a qualified biologist based on site conditions and the level of intensity of the disturbance activity. Passive relocation of resident owls is not recommended by CDFW where it can be avoided. If passive relocation is not avoidable, resident owls may be passively relocated according to a relocation plan prepared by a qualified biologist.</p>	<p>3) Direct qualified biologist to conduct employee education program; 4) Implement mitigation, as needed, per recommendation of qualified biologist, in coordination with CDFW and Kings County CDA.</p>	<p>3) Verify completion of employee education prior to ground disturbing activities; 4) Verify implementation of any required mitigation.</p>	
<p>d. <u>Tailgate Training for Workers.</u> All construction workers shall attend a tailgate training session conducted by a qualified biologist. The training is to include a description of the species, a brief summary of its biology, and minimization measures and instructions on what to do if a burrowing owl is observed within or near a construction zone.</p>			
<p>e. <u>Mitigation for Loss of Burrowing Owl Habitat.</u> If it is determined that burrowing owl nest(s) are located on or near the Solar Blue project site or access corridor, the biologist shall coordinate with the project applicant and resource agency to determine whether relocation of these nest(s) is unavoidable. If so, measure #1 below (off-site conservation easement) would apply. If the on-site or nearby nest(s) are to remain in place, the biologist shall determine whether sufficient foraging habitat is available on adjacent or nearby lands, and if so, no further mitigation is required. (Approximately 200 acres of year-round foraging habitat within about 2 miles of the burrowing owl burrow is required to support a burrowing owl pair.) If it is determined that there is insufficient nearby foraging habitat, the biologist shall determine the amount of on-site foraging habitat that is required to sustain the burrowing owl nest. In this case, the potential impact to foraging habitat shall be either avoided through implementation of measure #2 below (on-site buffer zone), or compensated through implementation of measure #1 (conservation easement) or measure #3 (long-term agreement on adjacent lands) below: <i>(Continued on next page.)</i></p>			

## MITIGATION MONITORING AND REPORTING PROGRAM

### Chestnut Solar Project CUP 19-01

Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<b>4.4 BIOLOGICAL RESOURCES (CONT'D)</b> <i>(Continued from preceding page.)</i>			
<p>1) Establishment of a conservation easement with a 1:1 ratio for foraging/breeding habitat preservation. These easements would include habitats determined to be suitable for foraging and/or breeding year-round and seasonal use, and shall be implemented in accordance with the specifications contained in the CDFW "Staff Report on Burrowing Owl Mitigation" (2012), <a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&amp;inline=true">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&amp;inline=true</a></p> <p>2) Establishment of permanent buffer zones of adequate size around current burrowing owl locations. These buffer zones would require adequate management for the life of the project and buffer zones to ensure the buffer area remains suitable for burrowing owls. Annual monitoring of the suitability of management activities may be required by CDFW.</p> <p>3) Short- or long-term compensation for foraging habitat by providing farmers in adjacent lands incentives to plant particular crops known to be suitable forage habitat for burrowing owls (i.e., winter wheat, alfalfa, etc.) and to enact a farmer burrowing owl safety program where farmers are trained how to reduce burrowing owl mortalities on their lands and farm roads. A 1:1 ratio would be required to be in the program as long as the project is active.</p>			

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Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.4 BIOLOGICAL RESOURCES (CONT'D)</b></p>			
<p><b>Mitigation Measure BIO-4: American Badger Mitigation.</b> The following measures shall be implemented to minimize impacts to the American badger, as necessary, in conjunction with the construction of the Solar Blue Project and access road:</p>			
<p>a. <u>Preconstruction Surveys for American Badger.</u> During the course of pre-construction surveys prescribed for other species, a qualified biologist shall also determine the presence or absence of badgers prior to the start of construction. If badgers are found to be absent, a report shall be written to the applicant so stating and no other mitigations for the protection of badgers would be warranted.</p>	<p><u>Responsible Party:</u> Applicant/Contractor</p> <p><u>Actions:</u> Prior to Construction: 1) Authorize qualified biologist to conduct preconstruction surveys; 2) If active den(s) found on or near site, authorize qualified biologist to establish exclusion zone(s) around den(s), and to monitor den(s) until end of breeding period; 3) Direct qualified biologist to conduct employee education program</p>	<p><u>Monitoring Agency:</u> Kings County CDA.</p> <p><u>Actions:</u> Prior to Construction: 1) Verify completion of pre-construction surveys; 2) Conduct field inspection to verify establishment of exclusion zone(s); 3) Verify completion of employee education prior to ground disturbing activities.</p>	
<p>b. <u>Avoidance of Active Badger Dens and Monitoring.</u> If an active badger den is identified during pre-construction surveys within or immediately adjacent to an area subject to construction, a construction-free buffer of 100 to 300 feet shall be established around the den. Once the biologist has determined that the badger(s) have vacated the burrow, the burrow can be collapsed or excavated, and ground disturbance can proceed. Should the burrow be determined to be a natal or reproductive den, and because badgers are known to use multiple burrows in a breeding burrow complex, a biological monitor shall be present on-site during construction activities in the vicinity of the burrows to ensure the buffer is adequate to avoid direct impact to individuals or natal/reproductive den abandonment. The monitor shall be required on-site until it is determined that young are of an independent age and construction activities would not harm individual badgers.</p>			
<p>c. <u>Tailgate Training for Workers.</u> All construction workers shall attend a tailgate training session conducted by a qualified biologist. The training is to include a description of the species, a brief summary of its biology, and minimization measures and instructions on what to do if an American Badger is observed.</p>			

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Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.5 CULTURAL RESOURCES</b></p> <p><b>Mitigation Measure CR-1: Protection of Cultural Resources.</b> In order to avoid the potential for impacts to historic and prehistoric archaeological resources, the following measures shall be implemented, as necessary, in conjunction with the construction of each phase of the Solar Blue Project:</p> <p>a. <u>Cultural Resources Alert on Project Plans:</u> The project proponent shall note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources.</p> <p>b. <u>Pre-Construction Briefing:</u> The project proponent shall retain Santa Rosa Rancheria Cultural Staff to provide a pre-construction Cultural Sensitivity Training to construction staff regarding the discovery of cultural resources and the potential for discovery during ground disturbing activities, which will include information on potential prehistoric cultural material finds and on the procedures to be enacted if resources are found.</p> <p>c. <u>Stop Work Near any Discovered Cultural Resources:</u> The project proponent shall retain a professional archaeologist on an "on-call" basis during ground disturbing construction for the project to review, identify and evaluate cultural resources that may be inadvertently exposed during construction. Should previously unidentified cultural resources be discovered during construction of the project, the project proponent shall cease work within 100 feet of the resources, and Kings County Community Development Agency (CDA) shall be notified immediately. The archaeologist shall review and evaluate any discoveries to determine if they are historical resource(s) and/or unique archaeological resources under CEQA.</p> <p><i>(Continued on next page.)</i></p>	<p><u>Responsible Party:</u> Applicant/Contractor</p> <p><u>Actions:</u></p> <p>Prior to Issuance of Building Permit: 1) Place Cultural Resources Alert on project plans.</p> <p><u>Prior to Construction:</u> 1) Arrange for Tribe to conduct pre-construction briefing.</p> <p><u>During Construction:</u> 1) If cultural resources discovered, establish 100-foot setback zone and contact archaeologist and Kings County CDA.</p>	<p><u>Monitoring Agency:</u> Kings County CDA.</p> <p><u>Actions:</u></p> <p>Prior to Issuance of Building Permit: 1) Confirm Cultural Resources Alert has been placed on project plans.</p> <p><u>Prior to Construction:</u> 1) Verify Tribe has completed briefing prior to construction.</p> <p><u>During Construction:</u> 1) Coordinate with applicant/contractor and archaeologist to ensure protection of cultural resources.</p> <p><i>(Continued)</i></p>	



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Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.5 CULTURAL RESOURCES (CONT'D)</b></p> <p><i>(Continued from preceding page.)</i></p>			
<p>d. <u>Mitigation for Discovered Cultural Resources:</u> If the professional archaeologist determines that any cultural resources exposed during construction constitute a historical resource and/or unique archaeological resource, he/she shall notify the project proponent and other appropriate parties of the evaluation and recommended mitigation measures to mitigate the impact to a less-than-significant level. Mitigation measures may include avoidance, preservation in-place, recordation, additional archaeological testing and data recovery, among other options. Treatment of any significant cultural resources shall be undertaken with the approval of the Kings County CDA. The archaeologist shall document the resources using DPR 523 forms and file said forms with the California Historical Resources Information System, Southern San Joaquin Valley Information Center. The resources shall be photo-documented and collected by the archaeologist for submittal to the Santa Rosa Rancheria's Cultural and Historical Preservation Department. The archaeologist shall be required to submit to the County for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the area of discovery shall not be allowed until the preceding steps have been taken.</p>	<p>2) Coordinate with Kings County CDA, archaeologist, and Santa Rosa Rancheria Tachi Yokut Tribe regarding appropriate mitigation;</p> <p>3) Coordinate with Santa Rosa Rancheria Tachi Yokut Tribe regarding monitoring during construction;</p> <p>4) Coordinate with Kings County CDA and Santa Rosa Rancheria Tachi Yokut Tribe regarding appropriate disposition of any cultural resources recovered from the site.</p>	<p>2) Coordinate with applicant, archaeologist, and Santa Rosa Rancheria Tachi Yokut Tribe regarding appropriate mitigation;</p> <p>3) Verify applicant has coordinated with Santa Rosa Rancheria Tachi Yokut Tribe regarding monitoring during construction;</p> <p>4) Coordinate with applicant and Santa Rosa Rancheria Tachi Yokut Tribe regarding appropriate disposition of any cultural resources recovered from the site.</p>	
<p>e. <u>Native American Monitoring:</u> Prior to any ground disturbance, the project proponent shall offer the Santa Rosa Rancheria Tachi Yokut Tribe the opportunity to provide a Native American Monitor during ground disturbing activities during both construction and decommissioning. Tribal participation would be dependent upon the availability and interest of the Tribe.</p>			
<p>f. <u>Disposition of Cultural Resources:</u> Upon coordination with the Kings County Community Development Agency, any pre-historic archaeological artifacts recovered shall be donated to an appropriate Tribal custodian or a qualified scientific institution where they would be afforded applicable cultural resources laws and guidelines.</p>			

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Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.5 CULTURAL RESOURCES (CONT'D)</b></p> <p><b><u>Mitigation Measure CR-2: Protection of Buried Human Remains.</u></b> In order to avoid the potential for impacts to buried human remains, the following measures shall be implemented, as necessary, in conjunction with the construction of Solar Blue Project:</p> <p>a. Pursuant to State Health and Safety Code Section 7050.5(e) and Public Resources Code Section 5097.98, if human bone or bone of unknown origin is found at any time during on- or off-site construction, all work shall stop in the vicinity of the find and the Kings County Coroner shall be notified immediately. If the remains are determined to be Native American, the Coroner shall notify the California State Native American Heritage Commission (NAHC), who shall identify the person believed to be the Most Likely Descendant (MLD). The project proponent and MLD, with the assistance of the archaeologist, shall make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines Sec. 15064.5(d)). The agreed upon treatment shall address the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. California Public Resources Code allows 48 hours to <i>for the MLD to make their wishes known to the landowner after being granted access to the site</i>. If the MLD and the other parties do not agree on the reburial method, the project will follow Public Resources Code Section 5097.98(b) which states that ". . . the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance."</p> <p>b. Any findings shall be submitted by the archaeologist in a professional report submitted to the project applicant, the MLD, the Kings County Community Development Agency, and the California Historical Resources Information System, Southern San Joaquin Valley Information Center</p>	<p><u>Responsible Party:</u> Applicant/Contractor</p> <p><u>Actions:</u></p> <p><u>During Construction:</u> 1) If human remains are discovered, engage project archaeologist and coordinate with Kings County CDA in implementing the legally required actions as specified in the mitigation measure.</p>	<p><u>Monitoring Agency:</u> Kings County CDA.</p> <p><u>Actions:</u></p> <p><u>During Construction:</u> 1) If human remains are discovered, coordinate with applicant and archaeologist to ensure that all legally required actions are implemented.</p>	

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Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.7 GEOLOGY AND SOILS</b></p>			
<p><b><u>Mitigation Measure GEO-1: Expansive Soils within Chestnut Solar Project Site.</u></b>            Prior to the issuance of the first building permit for each phase of the Chestnut Solar Project, the applicant shall retain a qualified registered civil engineer to prepare a preliminary soils report, based on soil borings or excavations, to determine the potential for soils expansion and to prepare recommendations for corrective actions to mitigate potential damage to project structures due to potential soils expansion. The preliminary soils report shall be submitted to Kings County Community Development Agency Building Division for review and approval. The potential damage from soils expansion can be reduced by one or more of several alternative engineering measures, as recommended by the registered civil engineer. These measures could include: overexcavation and replacement with non-expansive soils; extending foundations below the zone of shrink and swell; chemically treating the soils with quicklime or cement; or foundation design measures. The corrective measures specified would become conditions of Building Permit approval and would be subject to inspection and approval by the Kings County Building Official.</p>	<p><b><u>Responsible Party:</u></b> Applicant/Contractor</p> <p><b><u>Actions:</u></b>            Prior to <b><u>issuance of Building Permit:</u></b>            1) Authorize engineer to prepare soils report;            2) Submit soils report to Kings County CDA for review and approval.</p> <p><b><u>During Construction:</u></b>            1) Implements soils engineering measures recommended in soils report.</p>	<p><b><u>Monitoring Agency:</u></b> Kings County CDA.</p> <p><b><u>Actions:</u></b>            Prior to <b><u>issuance of Building Permit:</u></b>            1) Review and approve soils report as appropriate.</p> <p><b><u>During Construction:</u></b>            1) Conduct field inspections to verify implementation of soils engineering measures.</p>	
<p><b><u>Mitigation Measure GEO-2: Protection of Paleontological Resources.</u></b> In order to avoid the potential for impacts to paleontological resources, the following measures shall be implemented, as necessary, in conjunction with the construction of the Chestnut Solar Project:</p> <p>a. If paleontological resources are discovered during excavation activities at the project site, work within 100 feet of the find shall cease, and a qualified professional paleontologist shall be retained to evaluate the significance of the resources and make recommendations regarding the treatment, recovery, and curation of the resources, as appropriate. Treatment of any significant paleontological resources shall be undertaken with the approval of the Kings County CDA.</p>	<p><b><u>Responsible Party:</u></b> Applicant/Contractor</p> <p><b><u>Actions:</u></b>            During <b><u>Construction:</u></b>            1) If paleontological resources discovered, establish 100-foot setback zone, retain paleontologist to make recommendations regarding treatment, and notify Kings County CDA;            2) Submit treatment recommendations to Kings County CDA for approval as appropriate;            3) Implement approved treatment measures.</p>	<p><b><u>Monitoring Agency:</u></b> Kings County CDA.</p> <p><b><u>Actions:</u></b>            During <b><u>Construction:</u></b>            1) If paleontological resources discovered, verify establishment of 100-foot setback zone pending approval of treatment plan;            2) Review and approve treatment recommendations as appropriate;            3) Verify implementation of treatment measures as approved.</p>	

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Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.9 HAZARDS AND HAZARDOUS MATERIALS</b></p> <p><b>Mitigation Measure HAZ-1: Protection from Hazardous Materials.</b> In order to protect the public from potential release of hazardous materials, the following measures shall be implemented during project construction, operation, and decommissioning:</p> <p>a. The project applicant shall prepare and implement a Hazardous Materials Business Plan (HMBP) in accordance with the requirements of, and to the satisfaction of, the Kings County Public Health Department Environmental Services Division;</p> <p>b. The project applicant shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the requirements of the State Water Resources Control Board, and to the satisfaction of the Central Valley Regional Water Quality Control Board.</p> <p>The potential for minor spills would be largely avoided through implementation of the Hazardous Materials Business Plan (HMBP), as required under the Hazardous Materials Release Response Plan and Inventory Act of 1985. Under this state law, the applicant is required to prepare an HMBP to be submitted to the Kings County Public Health Department, Environmental Health Services Division, which is the Certified Unified Program Agency (CUPA) for Kings County. The HMBP would include a hazardous material inventory, emergency response procedures, training program information, and basic information on the location, type, quantity, and health risks of hazardous materials stored, used, or disposed of at the proposed project site, and procedures for handling and disposing of unanticipated hazardous materials encountered during construction. The HMBP would include an inventory of the hazardous waste generated on site, and would specify procedures for proper disposal. As required, hazardous waste would be transported by a licensed hauler and disposed of at a licensed facility. According to the HMBP reporting requirements, workers must be trained to respond to releases of hazardous materials in accordance with State and federal laws and regulations governing hazardous materials and hazardous waste (e.g., HAZWOPER training required by OSHA). Any accidental release of small quantities of hazardous materials would be promptly contained and abated in accordance with applicable regulatory requirements and reported to the Environmental Health Services Division. As the CUPA for Kings County, the Environmental Health Services Division of the County Public Health Department is responsible for implementation and enforcement of HMBPs. Implementation of the HMBPs for the Solar Blue Project would ensure that minor spills or releases of hazardous materials would not pose a significant risk to the public or the environment.</p>	<p><u>Responsible Party:</u> Applicant/Contractor/Operator</p> <p><u>Actions:</u></p> <p><u>Prior to Issuance of Building Permit:</u> 1) Prepare HMBP and submit to Kings County Public Health Department for approval; 2) Prepare SWPPP and submit to CVRWQCB and Kings County CDA for review and approval.</p> <p><u>During Construction:</u> 1) Implement approved SWPPP.</p> <p><u>During Project Operation:</u> 1) Implement approved HMBP.</p>	<p><u>Monitoring Agencies:</u> Kings County CDA and Kings County Public Health Department.</p> <p><u>Actions:</u></p> <p><u>Prior to Issuance of Building Permit:</u> 1) Review and approve HMBP (Public Health); 2) Review and approve SWPPP (CDA).</p> <p><u>During Construction:</u> 1) Conduct field inspections to verify implementation of SWPPP as approved (CDA).</p> <p><u>During Project Operation:</u> 1) Conduct field inspections to verify implementation of HMBP as approved (Public Health)</p>	



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Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.9 HAZARDS AND HAZARDOUS MATERIALS (CONT'D)</b></p> <p><b>Mitigation Measure HAZ-2: Preventing Valley Fever Exposure.</b> In order to protect the public and workers from Valley Fever, the following measures shall be implemented during project construction and decommissioning:</p> <p>a. Implement the Dust Control Plan required to be approved for the project by the San Joaquin Valley Air Pollution District under District Rule 8021 prior to ground disturbing activity.</p> <p>b. Provide workers with NIOSH-approved respiratory protection with particulate filters rated as N95, N99, N100, P100, or HEPA, as recommended in the California Department of Public Health publication "Preventing Work-Related Coccidioidomycosis (Valley Fever)," available at <a href="http://www.cdph.ca.gov/programs/hesis/Documents/CocciFact.pdf">http://www.cdph.ca.gov/programs/hesis/Documents/CocciFact.pdf</a></p>	<p><b>Responsible Party:</b> Applicant/Contractor</p> <p><b>Actions:</b></p> <p><u>Prior to Construction:</u> 1) Prepare Dust Control Plan and submit to SJVAPCD and Kings County CDA for approval.</p> <p><u>During Construction:</u> 1) Implement Dust Control Plan; 2) Provide workers with respirators as recommended.</p>	<p><b>Monitoring Agency:</b> Kings County CDA.</p> <p><b>Actions:</b></p> <p><u>Prior to Construction:</u> 1) Review and approve Dust Control Plan; 2) Verify implementation of any approved remediation plan.</p> <p><u>During Construction:</u> 1) Conduct field inspections to verify implementation of Dust Control Plan and distribution of respirators.</p>	

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### Chestnut Solar Project CUP 19-01

Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.10 HYDROLOGY AND WATER QUALITY</b></p> <p><b>Mitigation Measure HYD-1: Stormwater Quality Protection.</b> Prior to construction grading and prior to the decommissioning, the applicant shall be required to file a "Notice of Intent" (NOI) with the SWRCB to comply with the General Construction Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP for each project phase shall be prepared by a licensed engineer and shall detail the treatment measures and best management practices (BMPs) to control pollutants that shall be implemented and complied with during the construction and post-construction phases of solar development. The SWPPP(s) required for decommissioning shall specify BMPs to be implemented during the final project phase. The construction contracts for each project phase, and for the decommissioning phase, shall include the requirement to implement the BMPs in accordance with the SWPPPs. The SWPPPs will specify such practices as: designation of restricted-entry zones, sediment tracking control measures (e.g., crushed stone or riffle metal plate at construction entrance), truck washdown areas, diversion of runoff away from disturbed areas, protective measures for sensitive areas, outlet protection, provision mulching for soil stabilization during construction, and provision for revegetation upon completion of construction within a given area. The SWPPPs will also prescribe treatment measures to trap sediment once it has been mobilized, such as straw bale barriers, straw mulching, fiber rolls and wattles, silt fencing, and siltation or sediment ponds. Upon completion of each solar block, the finished grades beneath and around the finished rows of solar panels will be revegetated with a native seed mix. The reestablished vegetated cover would stabilize the soils and minimize the potential for post-construction erosion. The SWPPPs are subject to approval by the Central Valley Regional Water Quality Control Board (CVRWQCB), which makes the final determination on which BMPs are required for the project. The construction contracts for each project phase, and for the decommissioning phase, will include the requirement to implement the BMPs in accordance with the SWPPPs, and proper implementation of the specified BMPs is subject to inspection by the Regional Board staff.</p>	<p><b>Responsible Party:</b> Applicant/Contractor/Operator</p> <p><b>Actions:</b></p> <p><b>Prior to Construction:</b></p> <ol style="list-style-type: none"> <li>1) File NOI;</li> <li>2) Prepare SWPPP and submit to CVRWQCB and Kings County CDA for approval.</li> </ol> <p><b>During Construction:</b></p> <ol style="list-style-type: none"> <li>1) Implement SWPPP as approved.</li> </ol> <p><b>During Operation:</b></p> <ol style="list-style-type: none"> <li>1) Implement SWPPP as approved.</li> </ol> <p><b>During Decommissioning:</b></p> <ol style="list-style-type: none"> <li>1) Implement SWPPP as approved.</li> </ol>	<p><b>Monitoring Agencies:</b> Kings County CDA and Public Works Department.</p> <p><b>Actions:</b></p> <p><b>Prior to Construction:</b></p> <ol style="list-style-type: none"> <li>1) Verify filing of NOI.</li> <li>2) Review and approve SWPPP.</li> </ol> <p><b>During Construction:</b></p> <ol style="list-style-type: none"> <li>1) Conduct field inspections to verify implementation of SWPPP as approved.</li> </ol> <p><b>During Operation:</b></p> <ol style="list-style-type: none"> <li>1) Conduct field inspections to verify implementation of operational aspects of SWPPP as approved.</li> </ol> <p><b>During Decommissioning:</b></p> <ol style="list-style-type: none"> <li>1) Conduct field inspections to verify implementation of SWPPP as approved.</li> </ol>	

# MITIGATION MONITORING AND REPORTING PROGRAM

## Chestnut Solar Project CUP 19-01

Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.17 TRANSPORTATION</b></p> <p><b><u>Mitigation Measure TR-1: Traffic Safety Measures for Solar Project Construction.</u></b>            As a condition of project approval, and prior to the issuance of encroachment permits, the applicant shall consult with the Kings County Public Works Department prior to initiation of construction activities that may affect area traffic (such as equipment and supply delivery necessitating lane closures, trenching, etc.). Additionally, the project plans will be reviewed by the appropriate County departments for conformance with all applicable fire safety code and ordinance requirements for emergency access. The contractor shall implement appropriate traffic controls in accordance with the California Vehicle Code and other state and local requirements to avoid or minimize impacts on traffic.</p> <p>Traffic measures that shall be implemented during construction and decommissioning activities include the following:</p> <ul style="list-style-type: none"> <li>a. Construction traffic shall not block emergency equipment routes.</li> <li>b. Construction activities shall be designed to minimize work in public rights-of-way and use of local streets. As examples, this might include the following:               <ul style="list-style-type: none"> <li>i. Identify designated off-street parking areas for construction-related vehicles throughout the construction and decommissioning periods.</li> <li>ii. Identify approved truck routes for the transport of all construction- and decommissioning-related equipment and materials.</li> <li>iii. Limit the employee arrivals and departures, and the delivery of equipment and materials, to non-peak traffic periods (e.g., avoid unnecessary travel from 7 to 9 AM and 4 to 6 PM).</li> <li>iv. Provide for farm worker vehicle access and safe pedestrian and vehicle access.</li> <li>v. Provide advance warning and appropriate signage whenever road closures or detours are necessary.</li> </ul> </li> <li>c. Construction shall comply with San Joaquin Valley Air Pollution Control District standards for unpaved roads, which include a requirement to keep vehicle speeds below 15 miles per hour.                (Continued on next page.)</li> </ul>	<p><b>Responsible Party:</b> Applicant/Contractor</p> <p><b>Actions:</b></p> <p><u>Prior to Issuance of Encroachment Permits:</u>            1) Consult with Kings County Public Works Department regarding appropriate traffic safety measures.</p> <p><u>During Construction:</u>            1) Implement traffic safety measures recommended by Public Works Department.</p> <p><u>During Decommissioning:</u>            1) Implement traffic safety measures recommended by Public Works Department.</p>	<p><b>Monitoring Agencies:</b> Kings County CDA, Public Works Department, and Fire Department.</p> <p><b>Actions:</b></p> <p><u>Prior to Issuance of Encroachment Permits:</u>            1) Consult with Applicant/Contractor regarding recommendation of appropriate traffic safety measures.</p> <p><u>During Construction:</u>            1) Conduct field inspections to verify implementation of recommended traffic safety measures.</p> <p><u>During Decommissioning:</u>            1) Conduct field inspections to verify implementation of recommended traffic safety measures.</p>	

## MITIGATION MONITORING AND REPORTING PROGRAM

### Chestnut Solar Project CUP 19-01

Mitigation Measure	Responsible Party/ Timing/Action	Monitoring Agency/ Timing/Action	Verification Log
<p><b>4.17 TRANSPORTATION (CONT'D)</b></p> <p><i>(Continued from preceding page.)</i></p> <p>d. Prior to the issuance of a building permit, the applicant shall submit, for review and approval by the Kings County Community Development Agency, a report prepared by a qualified transportation engineer that addresses the potential wear and tear on Fresno County roads caused by construction traffic generated by the Chestnut Solar Project. The specific roadway improvements, if any, which are attributable to project construction traffic, shall be determined based on the conclusions of the report and as mutually agreed upon by the Kings County Community Development Agency, the Fresno County Department of Public Works and Planning, and the applicant. The applicant shall implement its fair share of the agreed-upon roadway improvements, or contribute its fair share of funding to undertake such improvements, prior to Building Permit signoff by the Kings County Building Official.</p>			
	<p><u>Responsible Party:</u> Applicant</p> <p><u>Actions:</u> <u>Prior to Issuance of Building Permits:</u> 1) Retain qualified transportation consultant to prepare a pavement condition study with recommendations for maintenance and repair, and calculation of fair share project costs of implementation. 2) Final recommendations shall be approved by Kings County CDA and accepted by applicant.</p>	<p><u>Monitoring Agency:</u> Kings County CDA.</p> <p><u>Actions:</u> <u>Prior to Issuance of Building Permits:</u> 1) Consult with Applicant and Fresno County Department of Public Works and Planning regarding maintenance and repair actions to be implemented, and/or amount of fair share contribution by applicant.</p>	
	<p><u>Prior to Final Building Permit Signoff by Kings County Building Official:</u> 1) Implement recommended maintenance and repair recommendations, or contribute fair share funding for recommended maintenance and repair actions.</p>	<p><u>Prior to Final Building Permit Signoff by Kings County Building Official:</u> 1) Confirm that maintenance and repair actions have been implemented, or that applicant has provided funding for project fair share of maintenance and repair costs.</p>	



May 25, 2021

Chuck Kinney  
Kings County  
Planning Division  
1400 W Lacey Blvd, Engineering Building #6  
Hanford, CA 93230

**Project: Conditional Use Permit for Westlands Chestnut Solar – CUP 19-01**

**District CEQA Reference No: 20210496**

Dear Mr. Kinney:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above from Kings County (County). The project consists of the construction of 106 permitted battery storage units and a Gen-Tie line (Project). The Project is located at 24998 Nevada Avenue, in Lemoore, CA (APN 026-320-009, 026-330-001, and 026-330-074).

### **Project Scope**

The Project consists of the construction of 106 permitted battery storage units on approximately 6-acres. The Project also consists of the construction of a central microwave communication tower and a Gen-Tie line for the purpose of delivering solar generation from the Chestnut Solar Project to the State Electrical grid.

Based on information provided to the District, Project specific annual emissions from construction and operation emissions of criteria pollutants are not expected to exceed any of the following District significance thresholds: 100 tons per year of carbon monoxide (CO), 10 tons per year of oxides of nitrogen (NOx), 10 tons per year of reactive organic gases (ROG), 27 tons per year of oxides of sulfur (SOx), 15 tons per year of particulate matter of 10 microns or less in size (PM10), or 15 tons per year of particulate matter of 2.5 microns or less in size (PM2.5).

Other potential significant air quality impacts related to Toxic Air Contaminants (see information below under Health Risk Assessment), Ambient Air Quality Standards, Hazards and Odors, may require assessments and mitigation. More information can be

**Samir Sheikh**  
Executive Director/Air Pollution Control Officer

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**Northern Region**  
4800 Enterprise Way  
Modesto, CA 95356-8718  
Tel: (209) 557-6400 FAX: (209) 557-6475

**Central Region (Main Office)**  
1990 E. Gettysburg Avenue  
Fresno, CA 93726-0244  
Tel: (559) 230-6000 FAX: (559) 230-6061

**Southern Region**  
34946 Flyover Court  
Bakersfield, CA 93308-9725  
Tel: (661) 392-5500 FAX: (661) 392-5585

found in the District's Guidance for Assessing and Mitigating Air Quality Impacts at: <https://www.valleyair.org/transportation/GAMAQI.pdf>

The District offers the following comments:

**1) Project Related Criteria Pollutant Emissions**

**1a) Construction Emissions:**

Although the construction-related emissions are expected to have a less than significant impact, the District suggests that the County advise project proponents with construction-related exhaust emissions and activities resulting in less than significant impact on air quality to utilize the cleanest reasonably available off-road construction fleets and practices (i.e. eliminating unnecessary idling) to further reduce impacts from construction-related exhaust emissions and activities.

**1b) Health Risk Screening/Assessment**

A Health Risk Screening/Assessment identifies potential Toxic Air Contaminants (TAC's) impact on surrounding sensitive receptors such as hospitals, daycare centers, schools, work-sites, and residences. TAC's are air pollutants identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health. A common source of TACs can be attributed to diesel exhaust emitted from both mobile and stationary sources. List of TAC's identified by OEHHA/CARB can be found at: <https://ww2.arb.ca.gov/resources/documents/carb-identified-toxic-air-contaminants>

The District recommends the development project(s) be evaluated for potential health impacts to surrounding receptors (on-site and off-site) resulting from operational and multi-year construction TAC emissions.

- i) The District recommends conducting a screening analysis that includes all sources of emissions. A screening analysis is used to identify projects which may have a significant health impact. A prioritization, using the latest approved California Air Pollution Control Officer's Association (CAPCOA) methodology, is the recommended screening method. A prioritization score of 10 or greater is considered to be significant and a refined Health Risk Assessment (HRA) should be performed.

For your convenience, the District's prioritization calculator can be found at: [http://www.valleyair.org/busind/pto/emission\\_factors/Criteria/Toxics/Utilities/PRIORITIZATION%20RMR%202016.XLS](http://www.valleyair.org/busind/pto/emission_factors/Criteria/Toxics/Utilities/PRIORITIZATION%20RMR%202016.XLS).

- ii) The District recommends a refined HRA for development projects that result in a prioritization score of 10 or greater. Prior to performing an HRA, it is recommended that development project applicants contact the District to review the proposed modeling protocol. A development project would be considered to have a significant health risk if the HRA demonstrates that the project related health impacts would exceed the District's significance threshold of 20 in a million for carcinogenic risk and 1.0 for the Acute and Chronic Hazard Indices, and would trigger all feasible mitigation measures. The District recommends that development projects which result in a significant health risk not be approved.

For HRA submittals, please provide the following information electronically to the District for review:

- HRA AERMOD model files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodology.

More information on toxic emission factors, prioritizations and HRAs can be obtained by:

- E-Mailing inquiries to: [hramodeler@valleyair.org](mailto:hramodeler@valleyair.org); or
- Contacting the District by phone for assistance at (559) 230-6000; or
- Visiting the District's website (Modeling Guidance) at:  
[http://www.valleyair.org/busind/pto/Tox\\_Resources/AirQualityMonitoring.htm](http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm).

### **1c) Ambient Air Quality Analysis**

An ambient air quality analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of the ambient air quality standards. For development projects the District recommends that an AAQA be performed for the project if emissions exceed 100 pounds per day of any pollutant.

If an AAQA is performed, the analysis should include emissions from both project specific permitted and non-permitted equipment and activities. The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis.

Specific information for assessing significance, including screening tools and modeling guidance is available online at the District's website [www.valleyair.org/ceqa](http://www.valleyair.org/ceqa).

## **2) Solar Deployment in the Community**

It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the County consider the feasibility of incorporating solar power systems, as an emission reduction strategy for this Project.

## **3) District Rules and Regulation**

The District issues permits for many types of air pollution sources and regulates some activities not requiring permits. A project subject to District rules and regulation would reduce its impacts on air quality through compliance with regulatory requirements. In general, a regulation is a collection of rules, each of which deals with a specific topic. For example, *Regulation II - Permits* encompasses multiple rules associated with the permitting of emission sources such as Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), and others.

### **3a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources**

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 requires that new and modified stationary sources of emissions mitigate their emissions using best available control technology (BACT).

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits.

Prior to commencing construction on any permit-required equipment or process, a finalized Authority to Construct (ATC) must be issued to the Project proponent by the District. For further information or assistance, the project proponent may contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.



**3b) District Rule 9510 (Indirect Source Review)**

The purpose of District Rule 9510 (Indirect Source Review) is to reduce the growth in both NOx and PM10 emissions associated with development and transportation projects from mobile and area sources associated with construction and operation of development projects. The rule encourages clean air design elements to be incorporated into the development project. In case the proposed project clean air design elements are insufficient to meet the targeted emission reductions, the rule requires developers to pay a fee used to fund projects to achieve off-site emissions reductions.

The District has reviewed the information provided and has determined the project is not subject to District Rule 9510. Therefore, District Rule 9510 requirements and related fees do not apply to the project.

**3c) District Regulation VIII (Fugitive PM10 Prohibitions)**

The Project will be subject to Regulation VIII. The project proponent is required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to construction.

Information on how to comply with Regulation VIII can be found online at:  
[http://www.valleyair.org/busind/comply/PM10/compliance\\_PM10.htm](http://www.valleyair.org/busind/comply/PM10/compliance_PM10.htm).

**3d) Other District Rules and Regulations**

The Project may also be subject to the following District rules: Regulation VIII, (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).

The list of rules above is neither exhaustive nor exclusive. Current District rules can be found online at: [www.valleyair.org/rules/1ruleslist.htm](http://www.valleyair.org/rules/1ruleslist.htm). To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

**4) District Comment Letter**

The District recommends that a copy of the District's comments be provided to the Project proponent.

If you have any questions or require further information, please contact Diana Walker by e-mail at [Diana.Walker@valleyair.org](mailto:Diana.Walker@valleyair.org) or by phone at (559) 230-5820.

Sincerely,

Brian Clements  
Director of Permit Services

A handwritten signature in blue ink, appearing to read "John Stagnaro".

For: John Stagnaro  
Program Manager

BC: dw

May 13, 2021

Toni Leist  
County of Kings  
1400 W Lacey Blvd #6  
Hanford, CA 93230

Ref: Gas and Electric Transmission and Distribution

Dear Toni Leist,

Thank you for submitting the 24998 Nevada Ave plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: [https://www.pge.com/en\\_US/business/services/building-and-renovation/overview/overview.page](https://www.pge.com/en_US/business/services/building-and-renovation/overview/overview.page).
2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.
3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

Sincerely,

Plan Review Team  
Land Management

## Attachment 1 – Gas Facilities

There could be gas transmission pipelines in this area which would be considered critical facilities for PG&E and a high priority subsurface installation under California law. Care must be taken to ensure safety and accessibility. So, please ensure that if PG&E approves work near gas transmission pipelines it is done in adherence with the below stipulations. Additionally, the following link provides additional information regarding legal requirements under California excavation laws: <https://www.usanorth811.org/images/pdfs/CA-LAW-2018.pdf>

1. **Standby Inspection:** A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.
2. **Access:** At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.
3. **Wheel Loads:** To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe.

Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas.

Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments).

No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.

4. **Grading:** PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.
5. **Excavating:** Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 12 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24 inch



wide trench being dug along a 36 inch pipeline, the centerline of the trench would need to be at least 54 inches [ $24/2 + 24 + 36/2 = 54$ ] away, or be entirely dug by hand.)

Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away.

Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

6. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations.

For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 12 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.

7. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible (90° +/- 15°). All utility lines crossing the gas pipeline must have a minimum of 12 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line 'kicker blocks', storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement.

If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.

8. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E's ability to access its facilities.

9. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16 foot wide gate for vehicular access. Gates will be secured with PG&E corporation locks.

10. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4') in height at maturity may be planted within the easement area.

11. Cathodic Protection: PG&E pipelines are protected from corrosion with an “Impressed Current” cathodic protection system. Any proposed facilities, such as metal conduit, pipes, service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.

12. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.

13. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E’s facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.



## Attachment 2 – Electric Facilities

It is PG&E's policy to permit certain uses on a case by case basis within its electric transmission fee strip(s) and/or easement(s) provided such uses and manner in which they are exercised, will not interfere with PG&E's rights or endanger its facilities. Some examples/restrictions are as follows:

1. Buildings and Other Structures: No buildings or other structures including the foot print and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E's transmission easement shall be designated on subdivision/parcel maps as "**RESTRICTED USE AREA – NO BUILDING.**"
2. Grading: Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E's review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.
3. Fences: Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&E's facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.
4. Landscaping: Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 15 feet in height at maturity. PG&E must have access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.
5. Reservoirs, Sumps, Drainage Basins, and Ponds: Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.
6. Automobile Parking: Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case by case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.
7. Storage of Flammable, Explosive or Corrosive Materials: There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.

8. Streets and Roads: Access to facilities must be maintained at all times. Street lights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.

9. Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.

10. Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.

11. Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.

12. Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of, and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (<https://www.dir.ca.gov/Title8/sb5g2.html>), as well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 ([http://www.cpuc.ca.gov/gos/GO95/go\\_95\\_startup\\_page.html](http://www.cpuc.ca.gov/gos/GO95/go_95_startup_page.html)) and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.

Contractor shall ensure the protection of PG&E's towers and poles from vehicular damage by (installing protective barriers) Plans for protection barriers must be approved by PG&E prior to construction.

13. PG&E is also the owner of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs that may endanger the safe and reliable operation of its facilities.



# Attachment 9

**Riley Jones:** Good afternoon today is Monday June 07, 2021 and this is a special meeting of the Kings County Planning Commission. Due to the County's efforts to mitigate the possible spread of the Covid 19 virus the Commission is using a teleconferencing format for today's meeting. We would like to thank all those participating today by phone and through the Internet. But, before we begin with the business portion of our meeting it is important that everyone understand that we do have a few rules for today's meeting to maintain order within the limitations of our system. First, participants calling in by phone will not be able to provide public comments in today's meeting. Phone participants have listening capabilities only. If you are joining us on a computer or through a smartphone app please make sure you are identified by name in the Webex system. For those interested in commenting during unscheduled appearances please use the raise your hand feature and wait to be recognized. Each speaker will be allowed up to two minutes for public comment. We ask for everyone's patience as we navigate this process. Please understand this format is being used to get us through the period of time while we are maintaining social distancing for public safety. Each vote today will be verbal or voice vote so the members of the public can hear what each member of the commission has voted. After we have had a motion and a second regarding each item we are taking up-to-date, we will be doing a roll call vote. With these points of order being addressed, we are ready to begin today's meeting. Will the secretary of the commission please call the roll.

**Chuck Kinney:** Commissioner Dias

**Steven Dias:** Here

**Chuck Kinney:** Commissioner Jones

**Riley Jones:** Present

**Chuck Kinney:** Commissioner Maciel

**Jim Maciel:** Here

**Chuck Kinney:** Commissioner Lynch is absent and Commissioner Bryant

**April Bryant:** Present

**Chuck Kinney:** You have four present with one absent so you do have a quorum.

**Riley Jones:** Thank you. So with that we will call to order the King's County Planning Commission. Please join me in standing for the pledge of allegiance. Ready salute.

**Everyone:** I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with Liberty and Justice for all

**Riley Jones:** Ok at this time would staff please provide a summary of the agenda.

**Chuck Kinney:** Yes, Mr. Chairman. Today you have three items of business, of new business for today. The first item is Conditional Use Permit number 20-02 for Westland's Grape Solar where the applicant is proposing to establish a 250 megawatt solar photovoltaic generating system, including the construction of an electrical substation, battery energy storage facilities, and Operations and Maintenance facilities on approximately 1,759 acres of ag land in the unincorporated area of Kings County were particularly located along North side of Nevada Avenue approximately 1/2 mile West of State Route 41. The second item today is Conditional Use Permit number 19 – 01, an amendment for the Westlands Chestnut Solar project. The amendment proposes to increase the permitted battery storage units from 44 units to a 150 units. It also proposes to move the location of the project operation center from the Northwest portion of the project site to the Southwest. It also is proposing to add a central microwave communication tower up to a 175 feet tall and also adding to the project that the gen-tie line that was previously approved under Conditional Use Permit 17-04 for Aquamarine would be included as part of this project. Project site for this is located at 24998 Nevada Avenue in Lemoore and the final application that you'll be considering today is Conditional Use Permit number 19-02 amendment for Westlands Blue Solar. The applicant is proposing to amend a previously approved conditional use permit to allow for the following modifications. Number one would increase the permitted battery storage units from 84 units to 250 units. Number 2 would propose the location, moving the location of the operation center from the South central area of project to the North central area of the project site and finally, also including the gen-tie that was

previously approved under the conditional use permit 17-04 for Aquamarine to also be a part of this project. This project site is located at 25959 Laurel Avenue in Lemoore. Are there any questions?

**Riley Jones:** Seeing none, thank you. Ok, at this time any person may make an unscheduled appearance by addressing the commission on any subject matter within the jurisdiction or responsibility of the Commission or may elect to address the commission on any agenda item at the time the item is called by the chair but before the matter is acted upon by the Commission. Unscheduled comments will be limited to two minutes. Seeing no unscheduled appearances

**Roger McNitt:** This is Roger McNitt I would like

**Riley Jones:** Do we have a hand up?

**Anthony Yun:** Yes we do.

**Riley Jones:** Ok, would you direct that person to go ahead and let him know he has the floor unless I just

**Roger McNitt:** Thank you very much Mr. Chairman. This is Roger McNitt and I'm the president of Southern Realty Company.

**Riley Jones:** We can't hear you.

**Anthony Yun:** Sir, can you please, sir we are unable to hear you.

**Roger McNitt:** Can you hear me now?

**Riley Jones:** No

**Roger McNitt:** We own several thousand acres of mineral rights in Kings County. We are big believers in solar. We have four existing agreements; one down in Kettleman City is supplying electricity to the city of Palo Alto. We recently have entered into an agreement with Westlands Aquamarine for it's development but something has come up since then that I want to bring to the attention of the Planning Commission and that is the use of forced labor for polysilicon that is used in the panels. It is a major issue throughout the United States now. The panel, uh the polysilicon comes from the Jinyang Province. Much of it of China, the same place that had and



they use forced labor on it according to reports that I have submitted to Mr. Kinney and would like to be put in the file. We would ask that you delay this for 30 days to look into the forced labor and that you allow the applicants to look at it. And the Solar Energy Industries Association. We join the Solar Energies Industry Association in absolute opposition to the use of forced labor. It's the same forced labor that was used to create cotton that competed unfairly with all of the cotton growers in Kings County. We believe that in 30 days we can get this done. We're not trying to stop this project but we need to know where it's going because we are concerned that the whole project would fail if the human rights groups come up and oppose it. We would urge that you continue it for 30 days, talk to the applicant, talk to the Solar Energy Industries Association and talk to your local cotton growers who have suffered in the past from this. They now have a rollout at Washington that we cannot import the cotton from this province. We believe that there and based on discussions with the Solar Energy Industries Association that there are more than enough silicone that is not related with the province to handle this. We have, we got the notice of the hearing late. We object to the late notice, but we would ask we asked we got a hold of Thursday afternoon the attorney for the applicants and asked if the solar supply chain traceability protocol of the solar industry be adopted by the applicant as well as the updated version of the industry's commitment to the Government In social responsibility and the solar's buyers got on traceability be made available. We asked them to get back to us. They have not responded. I was able over the weekend and today finally heard back from the Solar Association and they told me that the parent in the Westlands Sim Group is not in fact signed on to their supply chain tracey protocol. The issue is important in Washington and the president is considering stating that the polysilicon from this province can be used in US projects. The non-partisan billing in Congress pushing to the same effect there's also an issue with respect to what happens at the state level. If it turns out this is forced labor on this and the rest of the world is moving faster than the US is on denying it. We think an even greater risk is much of the electricity from solar plants and again we actively support solar. We

want to get this issue behind us on these projects as fast as possible but what many of the buyers of these are community degrading desperates. Community aggregation groups and they are made up generally of people who favor environment and favor solar as do I, but they also are very big on human rights and we believe that even if the governments don't move there is a substantial possibility these projects will end up as white elephants with no one to buy the solar power because the people who would normally buy it are very much pro

**Riley Jones:** This is the chairman speaking

**Roger McNitt:** And I will and I will leave it and other words

**Riley Jones:** Pardon me please.

**Roger McNitt:** wait 30 days to hear from

**Riley Jones:** Hello, would you state your name again please.

**Roger McNitt:** Roger McNitt, I'm the president of Southern Realty Co. We have mineral rights under these projects according to the Westland's people we've entered into an agreement with them on Aquamarine with the agreement on

**Riley Jones:** Sir, you've answered the question, you've answered the question. Thank you very much. Now at the beginning of this unscheduled appearance time limit was two minutes. I think we've been more than generous in providing you with time to state your cause and it's part of the record now. We thank you very much for your comments.

**Roger McNitt:** Thank you sir and I'm sorry I exceeded my two minutes. I would ask that all the materials that I have forwarded on to Mr. Kinney be included in the record.

**Riley Jones:** And I'm sure that will be the case. Thank you.

**Roger McNitt:** And thank you for your kindness.

**Riley Jones:** Ok, at this point I don't believe that anything that was brought up by Mr. McNitt is really under the purview of this Commission. I would certainly seek counsel's advise on that comment.

**Diane Freeman:** I would agree that procurement of materials would be an issue outside of this boards, or of this Commission's jurisdiction. Issues before this Commission are whether the CUP is warranted under the rules.

**Riley Jones:** Thank you. So we'll move forward then.

**Roger McNitt:** May I make one comment sir. We think it falls under the restoration provision

**Riley Jones:** You made several comments in exceedance of your two-minute time limit and we are not in the business of cutting people off when they have something to say, but we are not in the business of being educated on something that we are not necessarily qualified to make comments on. So, we would appreciate it that at this time you would confine yourself to listening to the rest of the proceedings.

**Roger McNitt:** Thank you very much sir.

**Riley Jones:** You're more than welcome. Does anyone else have any comments regarding the unscheduled appearances comments? Mr. McNitt, please feel free. If not we will move ahead with the approval of the minutes of April 5, 2020, 2021.

**Jim Maciel:** Mr. Chairman, I move that we approve the minutes of the meeting of, the date again? April 5, 2021.

**Riley Jones:** Ok we have a motion.

**Steven Dias:** Second

**April Bryant:** I'll second that.

**Riley Jones:** Motion and a second. All those, roll call vote please.

**Chuck Kinney:** Commissioner Maciel?

**Jim Maciel:** In favor, yes.

**Chuck Kinney:** Commissioner Dias?

**Steven Dias:** Yes

**Chuck Kinney:** Commissioner Bryant?

**April Bryant:** Yes

**Chuck Kinney:** Commissioner Jones?

**Riley Jones:** Aye

**Chuck Kinney:** That is four in favor, one absent.

**Riley Jones:** The minutes of the April 5, 2021 meeting have been approved. Under old business, we have none at this time. Under new business we have the summary of agenda by staff provided and so we will have staff report now on item number 3, Conditional Use Permit number 20-02 Westlands Grape Solar.

**Victor Hernandez:** Good afternoon, Planning Commission members, Victor Hernandez here, Planner with the Kings County Community Development Agency. Today I will be presenting Conditional Use Permit number 20-02 for the Westlands Grape Solar project. Can you guys hear me?

**Riley Jones:** It's kind of muffled to me.

**Victor Hernandez:** The applicant proposes to establish an approximately 250 megawatt alternating current solar photovoltaic generating farm, including the construction of an electrical substation, a battery energy storage facility, an Operations and Maintenance facility, access driveways and electrical interconnection gen-tie line. Utilities include water and electric distribution lines which will also be located on-site or adjacent. The Grape Solar project site will be located on approximately 1,759 acres of agricultural land in unincorporated Kings County. The Grape Solar project site is to be located at 24916 Nevada Avenue, Lemoore, California and is generally located on the north side of Nevada Avenue, approximately one-half mile west of State Route 41. The project site consists of 14 parcels including Assessor's Parcel Numbers 026-320-010, and 011, 026-320-021 through 028, 026-330-032 through 037, and 055 as well as 026-330-057. The 2035 Kings County General Plan designates the project site as being located within the Exclusive Agriculture (AX) and a portion with the General Agriculture (AG-40) land use designation. The project site is within the General Agricultural 40 acre minimum AG-40 zone district. The project site will be restricted by a Williamson Act Contract. Here is an image



showing the project site as well as the surrounding area. And here is an image showing the site plan for the project including the solar panel and the area where the substation will be located. Here is a close-up picture where the substation will be located as well as the battery storage containers and the O&M building. The initial Study/Mitigated Negative Declaration for the Westlands Grape Solar Project, CUP number 20-02, was circulated for public review on March 22, 2021 through May 24, 2021. Comments were received from the California Department of Fish and Wildlife. A response to these comments has been drafted and is included in the Planning Commission packet. A review of this project in compliance with the California Environmental Quality Act or CEQA, indicated that there may be significant adverse impacts to the environment, however those impacts can be mitigated to an insignificant level by implementing the Mitigation Monitoring and Reporting Program which is attached to the Planning Commission Resolution for this project.

Staff recommendations number 1. Hold a Public Hearing

2. Find the proposed project may have significant adverse impacts on the environment and that those impacts can be mitigated to an insignificant level by implementing the Mitigation Monitoring and Reporting Program attached to the resolution as Exhibit A and approve the Initial Study/Mitigated Negative Declaration.

3. Find that the project is consistent with the 2035 Kings County General Plan and the Kings County Development Code.

And finally, Adopt Resolution number 21-02 approving Conditional Use Permit number 20-02 with specified conditions of approval. This concludes the staff report unless there are any questions.

**Riley Jones:** Thank you.

**Mr. McNitt:** Mr., Mr. Chairman Roger McNitt, I assume since I've already made my comments on this including financial respiration I should not make any further comments at this time. I'll just incorporate them.

**Riley Jones:** That's my understanding as well, thank you.

**Mr. McNitt:** Thank you and the same for the next two. Trying to expedite your hearing.

**Riley Jones:** That is also my understanding. Thank you. Ok commissioners, any questions of staff with regard to the project?

**Jim Maciel:** Mr. Chairman, I have one and it's mainly dealing with the battery storage units. I just mostly want to refresh my memory. I know we've been doing several of these projects and most of them have the battery storage units. This one is adding 400, well these three if they are approved would add 432 more of those 40 foot containers. And I was wondering what type of battery technology they are using and how do our firefighters access these units? I guess, I assume the batteries are setting inside of these containers and what are the risks to our firefighters in controlling some type of fire if one should catch fire?

**Riley Jones:** I'm assuming we haven't heard from anybody representing Westlands Grape project. They're not online today? Right?

**Chuck Kinney:** We do have Bert Verrips who is the CEQA consultant for the project, online. He may have some information as it pertains to the battery storage for you.

**Riley Jones:** What was his name?

**Chuck Kinney:** Bert Verrips

**Riley Jones:** Ok

**Bert Verrips:** Yes Mr. Chairman, this is Bert Verrips. Members of the commission, um, yeah, the battery containers will be conventional batteries. I believe that Alex Martinez with the applicant is also on the call and I think he would be in a better position to describe the batteries in detail. Alex are you available?

**Anthony Yun:** I see him on the line but it doesn't look like he has, I'm not sure if he is hooked up to a microphone.

**Bert Verrips:** Alex you need to get on the computer.

**Alex Martinez:** There we go. Can you hear me now?

**Bert Verrips:** Yeah we can. Thanks Alex.

**Alex Martinez:** So I guess to address your questions in a couple parts. The chemistry that we are contemplating for the battery is either what is called MMC or LFP chemistry. Those are the two more commonly used chemistries for battery energy storage systems that are utility scale. Those batteries will be located in either like containerized solutions, kind of like a 40 foot shipping container solution or outdoor almost like switch gear type containers which have like access without going actually physically inside the container. Both of those containers would meet UL and fire safety requirements and standards that currently exist. In addition, I believe there were also some conditions in the conditions of approval which address fire safety as well. I'm happy to answer any other questions you may have.

**Chuck Kinney:** Mr. Chairman, if I could also point that condition number 5 from the Fire Department does deal with onsite battery storage units and devices and requires that the addition of battery storage and certain devices will trigger additional fire department requirements dependent upon the battery technology and design selection employed. Requirements may include but shall not be limited to the purchase of specialized hazmat vehicles and equipment along with mandated training for the Fire Department personnel. So, depending on the variety of battery and how it's employed, it will be reviewed by the Fire Department when the building plans come in and at that time they will be analyzing to access whether or not whether additional equipment or training is required for them to insure the safety of fire personnel.

**Riley Jones:** That brings up the question in my mind then, that if either of those two circumstances came to be, as long as the condition of approval at this level, commissioners level, Planning Commission level that the applicant would be the one that would provide the extra equipment or pay for the training.

**Chuck Kinney:** I believe that's what this condition does require.

**Riley Jones:** Very good.

**Jim Maciel:** Thank you Mr. Chairman, that answered my question.

**Riley Jones:** Did that get it all?

**Jim Maciel:** Yes sir.

**Riley Jones:** Ok, thank you further questions Jim. Any other questions? Steve?

**Steven Dias:** No, I'm good. You answered my other question because I was concerned that if we needed more equipment who was going to come up with that and the special training.

**Riley Jones:** That's usually the case but (inaudible) Ok, if there are no more questions then the chair will entertain a motion.

**Chuck Kinney:** Uh, Mr. Chairman.

**Riley Jones:** (unaudible) Ok at this time then we will open the public hearing for Conditional Use Permit 20-02. Is there anyone in the audience who wishes to speak out in favor of the project Conditional Use Permit 2002? Seeing none, hearing none, we have no hands up?

**Anthony Yun:** We have no hands.

**Riley Jones:** Is there anyone in the audience who would like to speak out in opposition to Conditional Use Permit 20-02?

**Roger McNitt:** Hello Mr. Chairman, Roger McNitt again. Just incorporate my earlier comments and filings on this.

**Riley Jones:** Very good, thank you very much. Is there anyone else who wishes to speak out in opposition to Conditional Use Permit 20-02? Seeing none, hearing none, I close the public hearing. It's closed. Now we are really (unaudible)

**Steven Dias:** If we move forward with this the Supervisors are the ones that are going to look into the delay, a 30 day delay or is that going to be us here?

**Diane Freeman:** I can respond to that. What the procedure is if this Commission approves the CUP then it's appealable to the Board of Supervisors. If somebody, an interested party or, appealed it to the Board of Supervisors then it will be considered by them. Um, otherwise there will be no further consideration of the CUP and it will be in effect.



**Riley Jones:** They have 30 days to appeal otherwise it's done.

**Seven Dias:** Ok, with that clarification I will make a motion that we approve the 2002 use permit.

**Riley Jones:** We have a motion, do we have a second?

**Jim Maciel:** I'll second the motion.

**Riley Jones:** Ok, it's been moved and seconded to approve Conditional Use Permit 20-02.

Roll call vote please.

**Chuck Kinney:** Commissioner Dias

**Steven Dias:** Yes

**Chuck Kinney:** Commissioner Maciel

**Jim Maciel:** Yes

**Chuck Kinney:** Commissioner Bryant

**April Bryant:** Yes

**Chuck Kinney:** Commissioner Jones

**Riley Jones:** Aye

**Chuck Kinney:** That is four in favor and one absent. Motion is approved.

**Riley Jones:** Moving to the next item, Conditional Use Permit 19-01 which is an amendment of Weslands Chestnut Solar. Staff report please.

**Chuck Kinney:** Good afternoon Chairman and members of the Commission. The applicant proposes to modify the previously approved Conditional Use Permit number 19-01 for the Chestnut Solar project as follows. Number 1, increasing the number of battery storage units from 44 to 150. Uh, modification number two is to change the planned location of the project operations center which is the substation, operations and maintenance facility, and battery storage facilities from the north side of the project site to the south side of the project site. And number three is to include a microwave communications tower up to 175 feet tall within the project operations center. And number four is included, include in the modified CUP number

19-01 the 7.2 mile segment of the gen-tie line extending from the substation on the Chestnut Solar Project site to the Fresno County line in the west. On October 7, 2019, the Kings County Planning Commission approved Conditional Use Permit number 1901 by the adoption of Resolution number 1903. Conditional Use Permit number 1901 was approved to develop a 150 megawatt photovoltaic solar energy generating facility to be constructed on approximately 1,040 acres located at 14998 Nevada Avenue. The 2035 Kings County General Plan designates the project site as being located within the Exclusive Ag Zone District. Exclusive Ag Land Use Designation, I'm sorry. And the General Agricultural AG-40 Zone District. A portion of the project site is restricted by a Farmland Security Zone Contract while the remainder of the site is considered to be subject to Williamson Act Contracts. The proposed project is to be located at 14998 Nevada Avenue, Lemoore, and includes Assessor Parcel numbers 026-320-009, 026-330-001 and 074. The site is on an approximately 1,040 acre parcel located within the unincorporated portion of Kings County. Next slide please. This is a picture showing the surrounding uses and the approximate location of the project site as well as the gen-tie line and project access corridor. Next slide. This is showing the site where the O&M building, substation and battery storage. The operations center would be moved from the north down to the south as well as the gen-tie line there. Next slide. California Environmental Quality Act Guidelines section 15164, found in the California Government Code of Regulations, allows for an Addendum to be approved to an approved Initial Study Mitigated Negative Dec to be prepared when minor technical changes or additions are necessary and if the Addendum does not meet any of the requirements stated in Section 15162. The Environmental Review section of this Staff Report, presented subsequently, details how the conditions of Section 15162 have not been met. Ok, so the staff report was passed out of the packet, sorry. The modified project would not result in any effects to the environmental resources that are more severe than those described in the approved Initial Study Mitigated Negative Dec. Therefore, as required by CEQA Guidelines Section 15162, the County has evaluated circumstances surrounding each

environmental topic in Addendum number 1 to the Initial Study Mitigated Negative Dec on Modification to CUP number 19-01. A Revised and Updated Mitigation Monitoring and Reporting Program is attached to Planning Commission Resolution number 21-03 as Exhibit A. Staff recommends that you hold a public hearing. Two, find that the proposed project would not result in any impact to environmental resources that are more severe than those described in the approved Initial Study Mitigated Negative Dec and that those impacts can be mitigated to an insignificant level by implementing the revised and updated Mitigation Monitoring and Reporting Program attached to the resolution as Exhibit A and approve Addendum number 1 of the mitigation, of the mitigated Negative Declaration. And number 3, find that the project is consistent with the 2035 Kings County General Plan, the Kings County Development Code and the Williamson Act. And number four, adopt Resolution number 21-03, approving Conditional Use Permit number 1901 Modification number 1 with specified conditions of approval. This concludes the staff report unless there are any questions.

Riley Jones: On 20-02 part of the project is in Fresno County, correct?

Chuck Kinney: The gen-tie line does extend into Fresno County because that's where the connection point is for

**Riley Jones:** That would be the same for this?

**Chuck Kinney:** Correct

**Riley Jones:** Six miles I think or something.

**Chuck Kinney:** I believe that's correct.

**Riley Jones:** Any questions?

**Steven Dias:** Why such an increase in the battery storage?

**Chuck Kinney:** Uh, I don't have, I believe the applicant is online to be able to respond to that.

I would imagine that it's probably because of the State's desire to go to 100% solar by 2045 and in order to do that they will have to have substantial amounts of batteries installed in the state to insure that power exists at night time.

**Bert Verrips:** Mr. Chairman, members of the Commission this is Bert Verrips. Yes Chuck is correct. Um, the trend is toward providing battery storage that is equivalent to the power generation at the site. In other words, if it's a 215 megawatt project you want the current trend is for the project to include 250 megawatts of storage in addition to that which provides approximately 4 hours of extra energy to be provided during evening hours when the sun is not shining. I hope that answers your question.

**Steven Dias:** Yes, thank you.

**Riley Jones:** Any other questions? Ok, before we go to the public hearing I'll ask another question. What's the total number of solar facilities now in Kings County?

**Chuck Kinney:** Off the top of my head I do not have the answer. We can look that up. We've got quite a few.

**Riley Jones:** I don't want to put you on the spot guessing.

Chuck Kinney: I can look it up on the computer there.

Riley Jones: That's alright. That's ok. You get where I was going. How many fires have we had?

**Chuck Kinney:** I'm not aware of us having any fires as of yet.

**Riley Jones:** (inaudible) I just wondered how many fires we've actually had. (inaudible) Ok, we'll go ahead with the Conditional Use Permit 19-01 Amended public hearing which is now open. Is there anyone in the audience who wishes to speak out in favor of the project, please do so at this time. No hands?

**Anthony Yun:** There are no hands raised.

**Riley Jones:** Seeing none, is there anyone in the audience who wishes to speak out in opposition to Conditional Use Permit 19-01 Amendment?

**Mr. McNitt:** Mr. Chairman, Roger McNitt again I raise the same issues. Specifically we think we should have mitigation for the financial risk and the restoration. In addition to my earlier



comments, I just want to emphasize those from my earlier comments. Thank you for your courtesies.

**Riley Jones:** Duly noted. Thank you for your comments. Is there anyone else who wishes to speak out in opposition to 19-01 Amendment? Seeing none we will close the public hearing. It is now closed. The chair will now entertain a motion.

**Jim Maciel:** Mr. Chairman, I move that we adopt Resolution number 21-03 and Conditional Use Permit number 19-01 the amendment to the Westlands Chestnut Solar Project.

**Riley Jones:** Ok, we have a motion to approve Conditional Use Permit 1901 and adopt Resolution 21-03. Is there a second?

**Steven Dias:** Second

**Riley Jones:** Moved and seconded. Roll call vote please.

**Chuck Kinney:** Commissioner Maciel

**Jim Maciel:** Yes

**Chuck Kinney:** Commissioner Dias

**Steven Dias:** Yes

**Chuck Kinney:** Commissioner Bryant

**April Bryant:** Yes

**Chuck Kinney:** Commissioner Jones

**Riley Jones:** Aye

**Chuck Kinney:** That's four in favor, one absent. Motion is approved.

**Riley Jones:** Thank you. Now move to item three Conditional Use Permit 19-02 Amendment, Westlands Blue Solar. Staff report please.

**Chuck Kinney:** Thank you. The applicant proposes to modify the previously approved Conditional Use Permit number 19-02 for the Solar Blue Project as follows. One, increase the number of battery storage units from 84 to 250. Two, change the planned location of the project operations center which is your substation, operations and maintenance facility and battery

storage facility from the south side of the project site to the north side and three, include in the modified CUP 1902 the 8.7 mile segment of the gen-tie line extending from the substation on the Solar Blue Project site to the Fresno County line in the west. On October 7, 2019, the Kings County Planning Commission approved Conditional Use Permit number 1902 by the adoption of Resolution number 1904. CUP number 1902 was approved to develop a 250 megawatt photovoltaic solar energy generating facility to be constructed on approximately 1,895 acres located at 25959 Laurel Avenue in Lemoore. The 2035 Kings County General Plan designates the project site as being located within the Exclusive Ag Land Use designation and the General Agriculture 40 acre minimum Zone District. A portion of the project site is restricted by a Farmland Security Zone Contract while the remainder of the site is considered to be subject to the Williamson Act Contract. This picture here depicts the location project site as well as the surrounding uses and includes the location of the gen-tie line. Next picture please. This is a picture depicting the site location with the modified location for the operational center going from the south to the north. Next picture. California Environmental Quality Act Guidelines section 15164, found in the California Code of Regulations, allows for an Addendum to an approved Initial Study Mitigated Negative Dec to be prepared when minor technical changes or additions are necessary and if the Addendum does not meet any of the requirements stated in Section 1562. The Environmental Review section of this Staff Report detailed how the conditions of section 15162 have not been met. The modified project would not result in any effects to the environment to environmental resources that are more severe than those described in the approved Initial Study Mitigated Negative Dec. Therefore, as required by CEQA Guidelines Section 15162, the County has evaluated circumstances surrounding each environmental topic in Addendum Number 1 to the Initial Study Mitigated Negative Dec on Modification to CUP Number 19-02. A Revised and Updated Mitigated Negative Dec. I'm sorry, a Revised and Updated Mitigation and Reporting Program is attached to Planning Commission Resolution Number 21-04 as Exhibit A. Staff recommends that your Commission, 1. Hold a public hearing,

2. Find that the proposed project would not result in any impact to the environmental resources that are not any more severe than those described in the Initial Study Mitigated Negative Dec and that those impacts can be mitigated to an insignificant level by implementing the Revised and updated Mitigation Monitoring and Reporting Program attached to the resolution as Exhibit A, and approve Addendum Number one of the Mitigation Negative Declaration. Mitigated Negative Declaration. Number 3, find that the project is consistent with the 2035 Kings County General Plan, the Kings County Development Code and the Williamson Act. And number 4, adopt Resolution Number 21-04, approving Conditional Use Permit Number 19-02 Modification Number 1 with specified conditions of approval. And that concludes the staff report unless there are any questions.

Riley Jones: Ok, Commissioners any questions of staff? At this time then we will open the public hearing regarding Conditional Use Permit 19-02, the Resolution 21-04. The public hearing is now open. Is there anyone in the audience who wishes to speak out in favor of Conditional Use Permit 1902 Amendment and Resolution 21-04?

**Anthony Yun:** We have no hands raised.

**Riley Jones:** No hands?

**Anthony Yun:** No hands.

**Riley Jones:** Is Mr. McNitt not there”

**Mr. McNitt:** I’m right here. I’m sorry, I couldn’t hear you. It was loud. Mr. Chairman thank you again. I raised my other objections in those files. I just want to confirm that we have 30 days to appeal it to the Supervisors.

**Chuck Kinney:** The appeal period for Conditional Use Permit, Mr. Chairman is eight days from the date of the decision. There is a 30 day appeal of the Environmental Document should someone choose to appeal that which is 30 days from the filing of the Notice of Determination.

**Riley Jones:** Ok, did you hear that well, Mr. McNitt?

**Mr. McNitt:** Yes I did Mr. Chairman and be sure to send me this time the Notice of Determination so I know when the 30 days are up.

**Diane Freeman:** This is Diane Freeman, Deputy County Counsel representing the Planning Commission. I would also encourage you to refer to the Development Code to independently confirm the appeal period and ensure that all applicable procedures are complied with should you chose to appeal.

**Mr. McNitt:** Thank you very much. Our lawyer is on the phone and he will do that.

**Mr. Jones:** Ok, is there anyone else in the audience who wishes to speak out in opposition to Conditional Use Permit 19-02? Seeing none, we will close the public hearing. It is closed.

Questions of staff? Questions of Commissioners?

**Steven Dias:** None

**Jim Maciel:** None

**Riley Jones:** Ok, the chair will entertain a motion.

**Steven Dias:** I will move that we accept Conditional Use Permit 19-02.

**Jim Maciel:** Commissioner, is that also include the adoption of Resolution 21-04?

**Steven Dias:** Yes

**Jim Maciel:** I'll second that motion.

**Riley Jones:** Ok, it has been moved and seconded to approve Conditional Use Permit 19-02 Amendment and at the same time adopt Resolution 21-04. Roll call vote please.

**Chuck Kinney:** Commissioner Dias

**Steven Dias:** Yes

**Chuck Kinney:** Commissioner Maciel

**Jim Maciel:** Yes

**Chuck Kinney:** Commissioner Bryant

**Commissioner Bryant:** Yes

**Chuck Kinney:** Commissioner Jones



**Riley Jones:** Aye

**Chuck Kinney:** Four approved, one absent, therefore the motion is approved.

**Riley Jones:** Ok, that takes care of all the regular agenda items. We will move on to miscellaneous and future meetings. The next special meeting of the Planning Commission is scheduled for Monday, July 2, 2021

**Chuck Kinney:** Mr. Chairman, I believe that's going to be a Friday, July 2. That's a typo in our packet. I apologize for that.

**Riley Jones:** Apology accepted.

**Steven Dias:** I will not be here on the second. I'm having surgery.

**Riley Jones:** I'm assuming we have no correspondence.

**Chuck Kinney:** The only correspondence received was from Mr. McNitt which was now part of the record.

**Riley Jones:** Thank you. Staff comments.

**Chuck Kinney:** One staff comment, just to make your Commission aware, Greg Gatzka did submit a letter of resignation to the County so, uh, he's going to be resigning as of this coming Friday.

**Riley Jones:** Ok, thank you for that information.

**Jim Maciel:** Mr. Chairman, I just have one comment. I might have missed it. On our first motion dealing with the Westlands Grape Solar. I only wrote down that we approved the CUP. I didn't write down we adopted the Resolution 21-02. I just wanted to make sure we did that.

**Riley Jones:** I think that was an automatic.

**Jim Maciel:** If it's automatic thanks. Thank you very much.

**Riley Jones:** Ok, any other Commissioner comments? If not we stand ajourned. (1:35 PM)

Attachment 10

## Article 17. Conditional Use Permits

### Sections:

- Sec. 1701 - Purpose and Objectives
- Sec. 1702 - Powers of Planning Commission
- Sec. 1703 - Conditional Use Permit Application and Fee
- Sec. 1704 - Investigation and Report
- Sec. 1705 - Public Hearing Notice
- Sec. 1706 - Public Hearing Procedure
- Sec. 1707 - Action of the Planning Commission
- Sec. 1708 - Conditions of Approval
- Sec. 1709 - Action of the Zoning Administrator
- Sec. 1710 - Review by the Board of Supervisors
- Sec. 1711 - Appeals
- Sec. 1712 - Action by the Board of Supervisors
- Sec. 1713 - Time Limit for Development
- Sec. 1714 - Zoning Clearance and Building Permit
- Sec. 1715 - Lapse and Extension of Conditional Use Permit
- Sec. 1716 - Revocation of a Conditional Use Permit
- Sec. 1717 - New Application

### Sec. 1701. Purpose and Objectives:

- A. In certain districts, conditional uses are permitted subject to the granting of a use permit. Because of their unusual characteristics and potential for causing significant adverse environmental effects, conditional uses require special consideration so that they may be located properly with respect to their effects on surrounding properties and the environment. In order to achieve these purposes and thus give the district use regulations of this Development Code the flexibility necessary to achieve the objectives of this Development Code, the Planning Commission ("Commission") is empowered to grant and to deny applications for use permits and to impose reasonable conditions upon the granting of use permits, subject to review of the Board of Supervisors ("Board").
- B. The purpose of this Article is to provide a process for reviewing Conditional Use Permit applications which are intended to allow the establishment of uses that have special impact, uniqueness, or effect on the neighborhood surrounding the subject site. The permit application process allows for the review of the location and design of the proposed use, configuration of improvements, potential impacts on the surrounding neighborhood, and to ensure that development in each zoning district protects the integrity of that district.

**Sec. 1702. Powers of Planning Commission:** The Planning Commission is the administrative agency authorized to grant use permits for such conditional uses in such districts as are prescribed in the district regulations of this Development Code, subject to review by the Board of Supervisors, in accordance with the procedure prescribed in this article. If an application for a change of district boundaries has been filed with the Planning Commission, an application for a Conditional Use Permit of property included in the application for change of district boundaries is granted by amendment of the Development Code. The Planning Commission, when considering an application for a conditional use, shall impose such conditions upon the granting of the use permit which are necessary for the protection of the public health, safety and general welfare, the environment, and which are necessary to achieve the objectives of this Development Code. See Section 804 of this Development Code for conditions required by the Planning Commission for projects in the Industrial zoning district.



**Sec. 1703. Conditional Use Permit Application and Fee.** Land uses listed in particular zoning districts as “Conditional uses – Planning Commission Approval” require the applicant to file an application for a Conditional Use Permit pursuant to this Article. Approval of the application must be granted by the Planning Commission prior to the use commencing.

A. **Application:** The application for a Conditional Use Permit shall be made to the Planning Commission on the “Uniform Application Form” described in Section 1602.A of this Development Code and shall include all applicable information listed in Section 1602 including the site plan drawing as well as the following information specific to conditional uses:

1. The application shall include an “Environmental Information Form”, also available on-line at [www.countyofkings.com/planning](http://www.countyofkings.com/planning) or from the Community Development Agency, for projects which are subject to environmental review.
2. Applications for new bovine dairies, or dairy calf and heifer raising facilities, and applications for the expansion of existing bovine dairies, or expansion of dairy calf and heifer raising facilities, shall be approved through the Conditional Use Permit process if the application DOES NOT MEET all of the specified criteria in the *Dairy Element* of the *Kings County General Plan*. The applicant shall submit one paper copy of the application and technical report required by Policy DE 3.1a of the Dairy element of the 2035 Kings County General Plan together with 21 copies of the application and technical report submitted on CD, DVD or USB Flash Drive. The paper copy shall have original signatures affixed where signatures are required. Refer to Section 413 of this Development Code for further information.
4. Applications for new permanent freestanding or detached signs or off-site advertising structures and applications with site plans where such signs are included shall include architectural drawings of the freestanding or detached sign structure and include the dimensions of each element of the sign. The architectural drawing shall also include the aggregate structural area and aggregate copy area of the sign as described in Article 14, Section 1404.
5. The Planning Commission and the Zoning Administrator may require submission of reports by technical consultants or other evidence in addition to the data required in Section 1602.

B. **Application Fees:**

1. Fee classifications for proposed projects.
  - a. The application shall be accompanied by a fee set by the Board of Supervisors sufficient to cover the cost of processing the application pursuant to this article. All fees shall be paid at the time the application is filed and no processing shall commence until the fees are paid in full.
2. Fee classifications for projects where work has been started or a use commenced without a permit.
  - a. Prior to the issuance of a Notice of Violation: If the application is submitted after a use that requires a zoning permit has begun operation, but prior to the issuance of a Notice of Violation, the application fee shall be the normal fee that is set by the Board of Supervisors.
  - b. After the issuance of a Notice of Violation: If the application is submitted after a use that requires a zoning permit has begun operation, and a Notice of Violation has been issued, the application fee shall be double the normal fee that is set by the Board.
  - c. 30 days after the issuance of a Notice of Violation: If the application is submitted after a use that requires a zoning permit has begun operation and 30 days or more after a Notice of Violation has been issued, the community development agency may use any lawful means prescribed in Article 24 of this ordinance to gain compliance.
3. If, pursuant to Article 1, Section 112 of this Development Code, the County determines that a project may incur extraordinary costs, the County may require the applicant to indemnify the County for those extraordinary costs associated with processing such project, or from legal challenges to its actions.





**Sec. 1704. Investigation and Report:** The Zoning Administrator shall make an investigation of the application and shall prepare a report thereon which shall be submitted to the Planning Commission. Such report shall include a recommendation as to the action to be taken by the Commission together with a statement supporting such recommendation.

A. The Zoning Administrator's investigation shall include documentation of the results of consultation with representatives of the following agencies as appropriate:

Kings County Agricultural Commissioner (EAC)

Kings County Public Works Department (EAC)

Kings County Health Officer, Environmental Health Division (EAC)

Kings County Mosquito Abatement District (for projects with basins) (EAC)

U.C. Cooperative Extension Service Farm Advisor (EAC)

Kings County Building Official/Code Compliance Division

Kings County Fire Department

Kings County Economic Development Corporation

Kings County Association of Governments (if project has the potential for causing adverse air quality, transportation, and climate change impacts)

Kings County Museum Advisory Committee (if project involves removal, destruction, or alteration of proposed or designated historic sites or County landmarks)

Kings Area Rural Transit

City of Avenal, Corcoran, Hanford or Lemoore (if the project is within the primary sphere of influence)

Kings River Conservation District (for construction on property that abuts the Kings River or its levees)

Central Valley Flood Protection Board (for construction on property that abuts the Kings River or its levees)

San Joaquin Valley Air Pollution Control District

Caltrans, District 6 (if project is within one mile of a State Highway or Interstate 5)

California Air Resources Board (if project has the potential for causing adverse air quality)

U.S. Fish and Wildlife Service

Any appropriate utility services, Community Service District or Public Utility District

Any other agency as determined by the Zoning Administrator

B. Refer to Article 1, Sections 110.E and 111 for additional information concerning compliance with the California Environmental Quality Act (CEQA).

**Sec. 1705. Public Hearing Notice:** The Planning Commission shall hold a public hearing on each application for a Conditional Use Permit. Notice of the public hearing shall be given as set forth in Section 1903 of this Development Code.

**Sec. 1706. Public Hearing Procedure:** At the public hearing, the Planning Commission shall review the application and the statement and drawings submitted therewith and the report of the Zoning Administrator and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the findings prescribed in Section 1707 below.

### **Sec. 1707. Action of the Planning Commission:**

A. The Planning Commission may grant an application for the Conditional Use Permit as the use permit was applied for or in modified form, if, on the basis of the application and the evidence submitted, the Commission makes the following findings in support of a decision on the Conditional Use Permit application:



1. The proposed use is consistent with the General Plan.
  2. The approval of the conditional use permit for the proposed use is in compliance with the requirements of the California Environmental Quality Act (CEQA).
  3. There will be no potential significant negative effects upon environmental quality and natural resources that could not be eliminated or avoided through mitigation or monitoring or (b) there will not be potential significant negative effects upon environmental quality and natural resources that could not be mitigated to the extent feasible, and a Statement of Overriding Considerations is adopted explaining why the benefits of the project outweigh the impacts that cannot be mitigated to a less than significant level.
  4. The proposed conditional use complies with all applicable standards and provisions of this Development Code and the purposes of the district in which the site is located.
  5. The design, location, size and operating characteristics of the proposed conditional use and the conditions under which it would be operated or maintained will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to the public health, safety, or welfare, or materially injurious to other permitted uses, properties, or improvements in the vicinity.
  6. That no process, equipment or materials shall be used which, are found by the Planning Commission, to be substantially injurious to persons, property, crops, or livestock in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water carried wastes, noise, vibration, illumination, glare or unsightliness or to involve any undue risk of fire or explosion.
  7. That no waste material shall be discharged into a public or private sewage disposal system except in compliance with the regulations of the owner of the system.
  8. That all uses shall comply with the emission standards of the San Joaquin Valley Air Pollution Control District.
  9. The site plan includes all applicable information as described in Article 16, Section 1602.A.5.
- B. When an application is being considered for a surface mining operation, the Planning Commission shall ensure that the application for the Conditional Use Permit for the surface mine complies with all of the requirements found in Chapter 17 of the *Kings County Code of Ordinances*, and that all findings included in said Chapter 17 are made by the Commission before granting the Conditional Use Permit.
- C. When an application is being considered for a hazardous waste management facility, the following findings shall be made before granting a Conditional Use Permit:
1. That all requirements of Article 8.7, "Procedures for the Approval of New Facilities" (commencing with Section 25199) of Chapter 6.5 of Division 20 of the *Health and Safety Code* as the requirements pertain to local land use decisions are carried out.
  2. That the Commission find that the proposed facility is consistent with the "Siting Criteria for Hazardous Waste Management Facilities" in the "*Kings County Hazardous Waste Management Plan*", as approved by the California Department of Health Services and adopted by the Kings County Board of Supervisors as parts of the Safety and Land Use Elements of the *2035 Kings County General Plan*.
- D. When an application is submitted for an expansion of a bovine dairy in the AL-10 zoning district, or when any other application is submitted for a dairy project as required by the *Dairy Element* of the *2035 Kings County General Plan*, or this Development Code, the following findings shall be made before granting a Conditional Use Permit:
1. That the Zoning Administrator has included in his or her report to the Planning Commission the results of consultation with representatives of the agencies listed in Section 412 of this Development Code before the Commission may grant the application:



2. The Planning Commission finds that the technical report required by Policy DE 3.1a of the Dairy element of the 2035 Kings County General Plan accompanying the conditional use application, which will include its own additional environmental review, demonstrates that the alternative dairy project design or process will accomplish the same or higher level of performance as required by the *Dairy Element*.
- E. When an application is submitted for a solar photovoltaic electrical facility for commercial sales and distribution of electrical power in an agricultural zoning district, the Planning Commission shall make findings consistent with the standards listed in Section 1112.B.2 of this Development Code before granting a Conditional Use Permit.
  - F. A Conditional Use Permit may be granted for a limited time period, and may be granted subject to such conditions as the Planning Commission may prescribe.
  - G. The Commission shall deny an application for a use permit if the Commission is unable to make the findings necessary for granting the permit.
  - H. The Commission's decision on the application shall become effective eight days following their decision, unless the Board of Supervisors initiates proceedings to review the decision of the Commission.

**Sec. 1708. Conditions of Approval:**

- A. In approving a Conditional Use Permit, the Planning Commission shall, in its resolution, state that conditions of approval are necessary to protect the public health, safety, and general welfare, and the environment. Such conditions may include:
  1. Special setbacks, spaces and buffers.
  2. Fences and walls.
  3. Surfacing of parking area subject to County specifications.
  4. Requiring street dedications and improvements subject to the provisions of Section 1603, including service roads or alleys when practical.
  5. Regulation of points of vehicular ingress and egress.
  6. Regulation of signs.
  7. Requiring landscaping and maintenance thereof.
  8. Requiring maintenance of the grounds.
  9. Regulation of noise, vibration, odors, and other similar characteristics.
  10. Regulation of time for certain activities to be conducted on the site.
  11. Time period within which the proposed use shall be developed.
  12. A bond to assure faithful performance on the part of the applicant, successor, heirs, or assigns of:
    - (a) The completion of street improvements and other facilities or removal of such facilities within a specified period of time; and
    - (b) The reclamation of mined lands; and/or
    - (c) Compliance with conditions of approval.



13. Mitigation measures, identified in the environmental documentation evaluating the application, determined to be necessary to avoid or lessen significant environmental effects that may result from the construction and operation of the approved use.
14. And such other conditions as will make possible the development of the County in an orderly and efficient manner, in conformance with the intent and purposes set forth in this Development Code.

B. The Commission shall specify minimum setback requirements and district regulations necessary to protect the continued agricultural production of properties surrounding parcels developed subject to Article 4, Section 408 of this Development Code.

**Sec. 1709. Action of the Zoning Administrator:** Within five days following a decision by the Planning Commission on a Conditional Use Permit application or an application for extension of time for a Conditional Use Permit, or on the revocation of a Conditional Use Permit, the Zoning Administrator shall give written notice by mail of the decision to the applicant and submit to the Clerk of the Board of Supervisors an informational update to be heard at the next available Board of Supervisors meeting.

**Sec. 1710. Review by the Board of Supervisors:**

- A. Within eight days following the date of a decision by the Planning Commission on a Conditional Use Permit application or on an extension of time for a CUP, or on the revocation of a CUP, the Board, on its own motion, may initiate proceedings to review the decision of the Commission. The Board shall specify the reason(s) for its review and the review shall be limited to the issues and evidence raised before the Commission.
- B. The Clerk of the Board shall give notice of the time and place when the decision of the Planning Commission will be reviewed by the Board of Supervisors. Notice will be given in the same manner as provided in Section 1903 of this Development Code for notice of hearing on appeal, except that where the review is of a decision of the Commission concerning the revocation of a use permit, and in that case, notice shall be required to be given only to the permit holder of the use permit.

**Sec. 1711. Appeals:** The applicant or any other directly affected person or party may appeal the decision of the Planning Commission in writing, setting forth his or her reason for such appeal:

- A. Appeal to the Board of Supervisors. Within eight days following the date of a decision of the Planning Commission on a use application or an application for extension of a Conditional Use Permit, the applicant or any other directly affected person or party person may appeal the Commission's decision in writing, setting forth his or her reason for such appeal to the Board. The appeal shall state specifically in writing wherein it is claimed that there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record.
  1. The appeal shall be filed with the Community Development Agency which will date stamp the appeal form and then forward the original appeal form to the Clerk of the Board of Supervisors. The submittal of the appeal form shall include one original, ten hardcopies, and one electronic copy of the appeal form and supporting documentation unless the Community Development Agency, in its discretion, waives the requirement for good cause.
  2. The appeal shall be accompanied by a fee set by the Board of Supervisors sufficient to cover the cost of processing the appeal and providing notice as prescribed in this article.
  3. The appeal shall be placed on the agenda of a Board of Supervisors regular meeting within 90 days of the appeal being filed with the Community Development Agency.
  4. The appeal of a decision of the Planning Commission is limited to the issues and evidence submitted to the Commission during the original public comment period and public hearing. Only those issues reviewed by the Commission in their decision may be appealed to the Board. New issues raised, and evidence submitted, after the close of the Commission's public hearing shall not be considered by the Board for an appeal.
- B. An appeal may be withdrawn before the time that the review authority issues a decision. The applicant or the applicant's representative shall notify the Community Development Agency in writing that they wish to withdraw the appeal.



C. No person shall seek judicial review of a County decision on a planning permit or other matter in compliance with this Development Code until all appeals to the Commission and Board have been first exhausted in compliance with this this Development Code.

(Ord. No. 668-1-17, §61 and §62, 3/28/17)

**Sec. 1712. Action by the Board of Supervisors:**

- A. When a decision of the Planning Commission on a conditional use application or an application for extension of time for a Conditional Use Permit, or on the revocation of a conditional use is brought before the Board of Supervisors, either on appeal or on its own motion:
  - 1. The Board may affirm, reverse or modify the decision of the Commission.
  - 2. The Board may not reverse or modify a decision of the Commission granting or denying an application for a conditional use or an application for a extension of a conditional use unless the Board, on the basis of the record transmitted by the Planning Division of the Community Development Agency, is able to make the findings prerequisite to the granting of a Conditional Use Permit as prescribed and set forth in Section 1707 of this Development Code.
- B. If the Board grants and approves a conditional use application or an application for extension of a conditional use which has been the subject of an appeal to the Board of Supervisors or which has been the subject of review by the Board the Conditional Use Permit or extension shall become effective three days after the date of the Board’s approval.
- C. The revocation of a conditional use which has been the subject of an appeal to the Board of Supervisors or which has been the subject of review by the Board shall become effective three days after the decision of the Board to revoke the conditional use.
- D. The decision of the Board shall be final and effective on the day of action, unless otherwise required by state law.
- E. The Clerk of the Board of Supervisors shall within three days after the date of the decision of the Board, give written notice of the decision, by mail, to the applicant and/or appellant (if the applicant is not the appellant) and to the Planning Division of the Community Development Agency.

**Sec. 1713. Time Limit for Development:** The Planning Commission or the Board of Supervisors may establish a time limit within which the subject property and use or any stage or phase thereof shall be commenced and completed. The time limits set by the Commission or the Board shall be reasonable, based on the size, nature and complexity of the proposed development. Said time limit may be extended by the Board for good cause when the applicant presents proof of an unusual hardship not of his or her own making or if the applicant presents evidence that the extension will not pose any detriment to the health, safety, or welfare of the general public.

**Sec. 1714. Zoning Clearance and Building Permit:** Before a building permit shall be issued for any building or structure proposed as part of the approved conditional use application, the Zoning Administrator shall certify, through the zoning clearance process in Section 1607 of this Development Code, that the building location is in conformity with the site plan and conditions approved by the Zoning Administrator, the Commission or the Board.

**Sec. 1715. Lapse and Extension of Conditional Use Permit:**

- A. A Conditional Use Permit shall lapse and shall become void 12 months following the date on which the use permit became effective unless by conditions of the use permit a greater or lesser time as prescribed in Section 1707 of this article, or unless prior to the expiration of the 12 month period or other specified greater or lesser period of time, a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the conditional use application, or commencement of the activity if a building permit is not required. In the case of a new or expanding dairy, a three year period may be granted if requested by the applicant at the time of

application due to the length of time necessary for the applicant to obtain required permits from the California Regional Water Quality Control Board and the San Joaquin Valley Air Pollution Control District.

- B. A Conditional Use Permit which has been granted may be extended for additional periods of time provided that prior to expiration of the original time period granted or any extension thereof, an application for extension of the Conditional Use Permit is filed with the Planning Commission. An application for extension of a Conditional Use Permit shall be filed and processed as an application for a Conditional Use Permit.
- C. The Planning Commission may grant an extension of a conditional use if it is able to make the findings prerequisite to the granting of a conditional use permit as prescribed and set forth in Section 1707 of this Article. The application for an extension of a conditional use permit shall be denied if such findings cannot be made.
- D. Within eight days following the date of a decision of the Planning Commission on an application for extension of a conditional use, the decision may be appealed to the Board of Supervisors. If no appeal is filed within said eight-day period and if the Board of Supervisors within said eight-day period does not initiate proceedings to review the decision of the Commission as provided herein, the decision of the Commission shall be final and conclusive.

**Sec. 1716. Revocation of a Conditional Use Permit:** When any applicable provision of this Development Code or when any condition or requirement of a Conditional Use Permit has not been complied with, the Zoning Administrator shall notify the permit holder of the Conditional Use Permit and shall give said person(s) a reasonable period of time within which to comply with said Development Code or condition or requirement. If the permit holder fails to comply with the Development Code or with said condition or requirement within such period of time, the Zoning Administrator shall give written notice to the permit holder that a hearing will be held by the Planning Commission on the matter of the revocation of the Conditional Use Permit.

- A. Notice of said hearing shall be given not less than 10 days prior to the date of the hearing by either personal service of a copy of said notice on permit holder or by sending a copy of the notice by certified or registered mail, return receipt requested, to said permit holder. The notice shall state the reason or reasons why action is being taken for revocation of the permit.
- B. At said hearing, the Planning Commission shall hear all relevant testimony concerning the Conditional Use Permit and the provisions of the Development Code which allegedly have not been complied with and the conditions or requirements which were imposed. If the Commission finds that any of the applicable provisions of the Development Code have not been complied with or that any of the conditions or requirements imposed have not been complied with, then the Conditional Use Permit shall be revoked.
- C. If the Conditional Use Permit is revoked by the Planning Commission, the permit holder may within eight days following the date of the decision of the Commission, appeal the decision to the Board of Supervisors.
- D. Upon the making of the decision by the Planning Commission to revoke the Conditional Use Permit, said use permit shall be automatically suspended. If an appeal is filed or if the Board of Supervisors initiates a review of the decision to revoke the use permit the suspension shall remain in effect during the course of the appeal or review. If, within said eight day period, no appeal is filed, and if the Board within said eight day period does not initiate proceedings to review the decision of the Commission as provided in Section 1709 of this Article, the decision of the Commission shall be final and conclusive.

**Sec. 1717. New Application:**

- A. Following the denial of a Conditional Use Permit application or the revocation of a Conditional Use Permit, no application for a use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within 12 months from the date of denial or revocation of the use permit.
- B. A new use permit shall be required for the reconstruction of a structure housing a conditional use established prior to enactment of this Development Code if the structure is destroyed by fire or other calamity or by act of God or by public enemy to a greater extent than 50 percent.



Attachment 11

## Article 19. Public Hearing Procedures

### Sections:

- Sec. 1901 - Purpose and Objectives**
- Sec. 1902 - Public Hearing Notice**
- Sec. 1903 - Method of Giving Notice**
- Sec. 1904 - Contents of the Public Hearing Notice**
- Sec. 1905 - Timing of the Hearing**
- Sec. 1906 - Rules for Conducting Public Hearings**

**Sec. 1901. Purpose and Objectives:** There are three principal purposes for this article. The first purpose of the article is to establish uniform procedures for public hearings notices required by this Development Code. The second purpose of the article is to establish uniform rules for conducting public hearings required by this Development Code. The third purpose of the article is to establish standard fees and application forms for the various types of applications required to initiate proceedings for the various actions identified by this Development Code. These forms provide the Zoning Administrator and the Planning Commission with the necessary information to determine whether the application is consistent with the intentions and purposes of the Development Code.

All proceedings carried out under this article or information required by this article, to evaluate an application are secondary to any requirement of state law. Therefore, if there is a difference between this article and state law, the proceedings or information required by state law shall prevail.

### **Sec. 1902. Public Hearing Notice:**

- A. Before a decision on any Conditional Use Permit; Variance; appeal of a decision on a Conditional Use Permit, Site Plan Review, or Variance; or amendment is made pursuant to this Development Code, a notice of the public hearing shall be given by the decision maker or decision making body as prescribed by Section 1903 of the Article.
- B. In the case of a Site Plan Review, Conditional Use Permit or Variance revocation hearing, notice of said hearing shall be given not less than 10 days prior to the date of the hearing by either personal service of a copy of said notice to the permit holder or by sending a copy of the notice by certified mail, return receipt requested, to said permit holder. The notice shall also state the reason or reasons why action is being taken for the revocation of the Conditional Use Permit or Variance.

**Sec. 1903. Method of Giving Notice:** The notice of public hearing shall be given as required by Government Code Section 65090, et seq. For site specific projects, notice shall also be given in the following manner:

- A. If the property immediately adjacent to the subject property is more than 300 feet in width, then notice shall be given to the next adjacent parcel as well. However, if the immediately adjacent property is less than 300 feet in width, no additional notice is required beyond the 300 feet. Parcels separated by a street or road shall be considered adjacent for determining which parcels are given notice.
- B. In addition to the above requirements, if a parcel is within the area that receives notice, both the property owner; and the situs address if different from the owner's address as shown on the latest equalized assessment roll, shall be given notice. Any additional notification or method of notification deemed necessary or appropriate in the opinion of the Zoning Administrator or decision maker or as may be required by law, may also be used to give notice.

**Sec. 1904. Contents of the Public Hearing Notice:** The notice of public hearing shall contain the information required by Government Code Section 65094. Any additional information the Zoning Administrator or decision maker deems important or necessary may be added to the notice.





**Sec. 1905. Timing of the Hearing:** The hearing body or officer shall hold a public hearing on each application as prescribed in this Development Code. Such hearings shall be held within following time frames which shall begin on the date the application is determined to be complete by the Zoning Administrator:

Table 19-1 PUBLIC HEARING TIME FRAMES	
Site Plan Review (if required by the Zoning Administrator)	15 days
Conditional Use Permit	45 days
Amendment	45 days
Variance	45 days

**Sec. 1906. Rules for Conducting Public Hearings:** The following procedures shall be the basis for conducting public hearings required by this Development Code, and the hearing officer or body may modify these rules to accommodate specific requirements unique to an individual application.

A. Order of Procedure:

1. Oral and documentary evidence will be presented in the following order:
  - a. Staff Report – Planning staff will give a detailed verbal report to the hearing body on the application, including environmental review documents, that are before the decision maker.
  - b. Questions from the decision maker and the public - Upon completion of the staff report the decision maker may reserves time to ask questions of staff to clarify the staff report and recommendation. Following the decision maker’s questions members of the public may be allowed at the discretion of the decision maker to ask questions to clarify the staff report and recommendation.
  - c. Public Testimony:
    - (1) Everyone who wants to present testimony in favor of the proposal will be heard.
    - (2) Everyone who wants to present testimony opposed to the proposal will be heard.
    - (3) The applicant or the applicants authorized agent may rebut any testimony.

B. Rules Applicable to Public Testimony:

1. Testimony shall be received on a first come-first serve basis. If the decision maker determines that the hearing may be lengthy special rules may be invoked to require those who wish to testify to fill out a speaker’s reservation card and, testimony will be by order of the number on the card. Failure of a person to promptly respond when their name is called shall result in the person forfeiting their right to address the decision making body or officer, unless the chairman or officer expressly rules otherwise. This rule may be modified to fit specific case as needed.
2. The person testifying will audibly state into the microphone, if one is present, his or her name and address before beginning testimony. If that person is representing a group or organization the speaker shall identify that group or organization, including that group or organizations address.
3. All speakers shall address the hearing officer or chairman of the decision making body, and comply with the following rules:
  - a. At the discretion of the hearing officer or chairman any obscene language or defamatory statements shall be ruled out of order and may forfeit the speaker's right to make or continue to make his or her presentation.
  - b. Anyone making personal, impertinent, or slanderous remarks, or who shall become boisterous or disruptive while addressing the hearing officer or decision maker so as to impair the conduct of the hearing, or who addresses anyone but the chairman without first securing permission of the chairman shall forthwith, by order of the



chairman, be barred from further attendance at such hearing or meeting, unless permission to remain shall be granted by majority vote of the full decision making body.

- c. The chairman may also order the room cleared and continue in session in compliance with Government Code Section 54957.9.
4. Any questions directed to the staff by a member of the public shall be ruled out of order. Questions to such person shall be asked of the chairman or hearing officer. Any member of the decision making body may then, upon being recognized by the chairman or hearing officer, in the sole discretion of such member of the decision making body, ask the staff to respond to the question. This does not apply to the portion of the hearing devoted to answering questions from the public, when the chairman recognizes a speaker to ask such a question.
5. Anyone addressing the hearing officer or decision making body shall limit their address to a reasonable period of time as may be directed by the hearing officer or chairman, not to exceed five minutes, unless the chairman expressly rules to extend such time by an additional five minutes.
6. Whenever any group of people wishes to address the decision maker, the hearing officer or chairman may limit the number of people from that group to avoid unnecessary repetition of testimony. Anyone identifying himself or herself as a member of a group may be asked to limit his or her comments to a simple affirmation of the group spokesperson's comments. Members of a group collectively may forego speaking and yield their time to a spokesperson up to a maximum of 20 minutes.
7. Speakers should avoid repetition of statements by previous speakers. The hearing officer or chairman may cut-off any speaker if the material presented is merely repetitious.
8. Notwithstanding the foregoing time limitations, any person or group may submit written documents to the decision maker. These documents must be submitted to the hearing officer or secretary/clerk of the decision making body prior to the close of the public hearing, unless the hearing officer or chairman approves a specific extension upon a request from a person giving testimony. The hearing officer or chairman shall give a specific time within which the written testimony must be received to be considered.
9. No one, other than the hearing officer or chairman, shall be permitted to enter into any discussion with a speaker without permission or direction from the hearing officer or chairman.
10. Except as provided in sub-paragraphs A.1. above, and C.8. below, no one offering testimony may address the decision maker on more than one occasion, unless the hearing officer or chairman otherwise allows.

#### C. Miscellaneous Rules

1. No person except a member of the decision making body or the hearing officer may address any speaker except during rebuttal allowed under Section 1906.A.1.c.3 above.
2. Testimony (oral or written) not received prior to or during the public hearing shall be disregarded, unless specifically allowed to be submitted at a later time by the hearing officer or chairman of the decision making body, pursuant to Section 1906.B.8. above
3. Public hearings will not be conducted according to technical rules relating to evidence and witnesses, unless specifically approved by the decision maker prior to the hearing and so noted in the notice of the public hearing. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over the objection in civil actions.
4. All exhibits and documents used by witnesses during their testimony shall be marked as exhibits by the hearing officer or the decision making body's staff and introduced into the record.
5. All hearings shall be recorded by an audio recording device unless otherwise noted in the notice of the hearing. Video recordings may be substituted for audio recording. The official record of the proceedings will be the summary minutes



of the hearing prepared by the hearing officer, or decision makers' staff, and approved by the decision maker, unless the decision maker orders that a written transcript of the audio, or video, tape of the hearing be made, in which case the transcript will become the official record of the hearing.

6. The hearing officer or chairman shall rule on the admissibility of evidence into the record upon objection being made to the filing of such evidence. Such rulings may be referred to the full decision making body for review and final determination.
7. The hearing officer or decision making body may request of all public officials, staff, and any member of the public such available information, advice, or opinions as may be required to carry out its function.
8. In the event that there is anyone who wishes to speak, the time allowed by these rules may be proportionately allocated and the time limits changed at the discretion of the hearing officer or chairman.
9. After closing the hearing, proceedings may stand under advisement until a decision is rendered.
10. Banners and posters will be allowed to be placed along the side or rear of the hearing room, but any poster or banner shall be excluded by the hearing officer or chairperson subject to the following guidelines:
  - a. Assistance from staff must be asked for in the placement of any sign or poster.
  - b. Anyone who wishes to carry a hand-held banner or poster in his or her seat will be asked to sit in the rear of the room so the display of the banner or poster does not obstruct the view or hearing of individuals seated behind him or her. If a poster or banner is hand-held, it shall be made from a material that does not make a disruptive rustling or crinkling noise when bent or moved.
  - c. Posters and banners shall be a maximum of four feet by five feet in size, two-dimensional, and made of soft material such as cloth, paper, or flexible cardboard. Materials may not be glued or otherwise affixed to any banner or poster, except for stickers or other soft materials that are firmly attached. Any banner or poster that is fixed to a stick or similar object will not be allowed in the hearing room. No ink or paint may be used on a poster or banner that gives off a noxious odor.
  - d. Posters and banners shall be polite and respectful. No poster or banner may depict or suggest violence, contain profane or obscene images or words, or otherwise be offensive to the sensibilities of a reasonable member of the community in a manner that is not necessary to convey to the hearing officer or decision making body the outcome on any issue or issues before the hearing officer or decision making body desired by the proponent of the poster or banner. Posters or banners displayed at a hearing may attack ideas, but they may not attack people or personalities, display any person or organization in a false light, or include any slanderous statements or depictions.
  - e. A poster or banner shall be excluded by the hearing officer or chairperson if, on the basis of particularized facts known or made known to the hearing officer or chairperson, she or he reasonably suspects that the poster or banner is likely to incite a physical altercation or inappropriately loud disruption of the proceedings. This rule shall not be invoked to prevent the display of a poster or banner that does no more than inform the decision making body or hearing officer of the outcome on any issue or issues before the decision making body or hearing officer desired by the proponent of the poster or banner.



# Attachment 12



**State of California**

**GOVERNMENT CODE**

**Section 65090**

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65090. (a) When a provision of this title requires notice of a public hearing to be given pursuant to this section, notice shall be published pursuant to Section 6061 in at least one newspaper of general circulation within the jurisdiction of the local agency which is conducting the proceeding at least 10 days prior to the hearing, or if there is no such newspaper of general circulation, the notice shall be posted at least 10 days prior to the hearing in at least three public places within the jurisdiction of the local agency.

(b) The notice shall include the information specified in Section 65094.

(c) In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable.

(d) Whenever a local agency considers the adoption or amendment of policies or ordinances affecting drive-through facilities, the local agency shall incorporate, where necessary, notice procedures to the blind, aged, and disabled communities in order to facilitate their participation. The Legislature finds that access restrictions to commercial establishments affecting the blind, aged, or disabled is a critical statewide problem; therefore, this subdivision shall be applicable to charter cities.

(Amended by Stats. 2000, Ch. 785, Sec. 1. Effective January 1, 2001.)

# Attachment 13

**State of California**

**GOVERNMENT CODE**

**Section 54954.2**

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54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site

and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) For the purposes of this paragraph, both of the following definitions shall apply:

(i) "Integrated agenda management platform" means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated



below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

(Amended by Stats. 2016, Ch. 265, Sec. 1. (AB 2257) Effective January 1, 2017.)