



Planning Commission Staff Report
Item # 1, July 16, 2026
General Plan Amendment No. PA-2400220 and
Administrative Use Permit No. PA-2400217
Prepared by: Jessica Leal

PROJECT SUMMARY

Applicant Information

Property Owner: Alawdi Zakrya
Project Applicant: Mohamed S. Elshafei

Project Site Information

Project Address: 12 East Hurd Road, French Camp
Project Location: On the south side of East Hurd Road, between South El Dorado Street and South Harlan Road, French Camp.

Parcel Number (APN):	193-170-17, -18, -19, & -20	Water Supply:	Private (Proposed Well)
General Plan Designation:	I/G	Sewage Disposal:	Private (Proposed Septic System)
Zoning Designation:	C-C	Storm Drainage:	Private (On-Site)
Project Size:	0.81 acres	100-Year Flood:	No (X [Levee])
Parcel Size:	0.81 acres	Williamson Act:	No
Community:	French Camp	Supervisory District:	3

Environmental Review Information

CEQA Determination: Mitigated Negative Declaration (Attachment C, Environmental Document)

Project Description

This project is comprised of two applications:

- General Plan Map Amendment No. PA-2400220 to change the General Plan designation from I/G (General Industrial) to C/C (Community Commercial).
- Administrative Use Permit No. PA-2400217 to construct a 4,128-square-foot commercial kitchen facility selling prepared food through a drive-through. (Use Type: Eating and Drinking Establishment – Restaurant, Limited Service) The proposed use will have no on-site eating facilities and will be take out only. The project proposes new on-site services: a well for water, a septic system for wastewater, and on-site storm water drainage. Driveways are proposed with direct access to both South El Dorado Street and South Harlan Road. No access is proposed onto East Hurd Road.

Recommendation

1. Forward to the Board of Supervisors the Mitigated Negative Declaration (Attachment C) and Mitigation Monitoring and Reporting Program (Attachment D) with a recommendation to adopt;

2. Forward to the Board of Supervisors the Findings for General Plan Map Amendment (Attachment E) with a recommendation to adopt;
3. Forward to the Board of Supervisors General Plan Map Amendment No. PA-2400220 (Attachment A) with a recommendation to adopt;
4. Forward to the Board of Supervisors the Findings for Administrative Use Permit No. PA-2400217 (Attachment F) with a recommendation to adopt; and
5. Forward to the Board of Supervisors Administrative Use Permit No. PA-2400217 and the corresponding recommended Conditions of Approval (Attachment G) with a recommendation to approve.

NOTIFICATION & RESPONSES

(See Attachment B, Response Letters)

Public Hearing Notices

Legal ad for the public hearing published in the Stockton Record: June 26, 2026.

Number of Public Hearing notices: 357

Date of Public Hearing notice mailing: June 26, 2026.

Referrals and Responses

- **Early Consultation Date:** November 5, 2024
- **Project Referral with Environmental Determination Date:** December 16, 2025
- **Mitigated Negative Declaration Posting Date:** December 16, 2025
- **OPR State Clearinghouse #:** 2025120869

Agency Referrals	Response Date - Early Consultation	Response Date - Referral
County Departments		
Assessor		
Community Development		
Building Division		
Fire Prevention Bureau		
Public Works	04/09/2025	02/03/2026
Environmental Health	11/07/2024	12/24/2025
Supervisor: District 3		
Sheriff Office		
Surveyor		
State Agencies		
CA Food & Agriculture		
C.V.R.W.Q.C.B.		
Fish & Wildlife, Division: Region 2		
CA Department of Conservation		01/06/2026
Federal Agencies		
US Fish & Wildlife		04/07/2025
F.E.M.A.		

Agency Referrals	Response Date - Early Consultation	Response Date - Referral
Local Agencies		
A.L.U.C.	11/05/2024	
French Camp-Mckinley Fire District		
Reclamation District 17		
Mosquito & Vector Control		
S.J.C.O.G.	11/04/2024	
Stockton East Water District		
French Camp MAC		
Manteca Unified School District		
Miscellaneous		
Buena Vista Rancheria		
California Valley Miwok Tribe		
Haley Flying Service		
P.G.&E.	11/25/2024	01/17/2026
Precissi Flying Service		

This page intentionally left blank.

ANALYSIS

Background

The project parcels previously contained single-family residences and a commercial structure, which have all since been demolished.

General Plan Map Amendment

The project site was previously designated as Community Commercial (C/C) in the 2010 General Plan. However, this was updated to General Industrial (I/G) when the Board of Supervisors approved a landowner request as part of the comprehensive update to the 2035 General Plan, adopted in 2016. The change in General Plan designation created an inconsistency with the existing zoning classification of C-C (Community Commercial) that was to be addressed when the property owner applied for a specific industrial project. The project site is now under new ownership, and the current landowners are proposing an Administrative Use Permit for commercial development as a commercial kitchen facility. Since industrial development is no longer planned for the site, the project includes amending the General Plan Map to redesignate the parcel as C/C (Community Commercial) again for consistency with the zoning and proposed project.

Findings

Development Title Section 9-807.060 states that the Board of Supervisors shall make several findings prior to approving a General Plan Map Amendment. These findings include that the proposed changes be consistent with the General Plan and other applicable documents, as well as be reviewed in compliance with the California Environmental Quality Act. Proposed changes must also contribute to the public health, safety, and general welfare or benefit the public. These findings (Attachment E) can be made because the proposed General Plan Map Amendment are consistent with the goals and criteria outlined in the General Plan. Additionally, an Initial Study was prepared for the underlying project which found that any potentially significant impacts could be reduced to a level of less than significant with the mitigation measures contained in the Mitigation Monitoring and Reporting Program attached to the Staff Report (Attachment D)

Administrative Use Permit

In May of 2024, the applicant submitted an Administrative Use Permit application for a commercial kitchen facility to prepare and deliver food.

Operations

The proposed commercial kitchen will operate year-round, six days a week with two shifts per day. The first shift will occur from 8 am to 12 pm, and the second shift will occur from 1 pm to 5 pm with an average of three employees per shift. The proposed facility is anticipated to operate with one tenant and receive an average of two deliveries/shipments per day. All orders will be submitted online with the drive-through to be utilized for customer pick-up only.

Findings

Development Title Section 9-804.050 states that the decision-maker, in this case the Board of Supervisors, shall make several findings prior to approving an Administrative Use Permit. These findings include that the proposed use is consistent with the General Plan and other applicable documents, complies with the requirements of the Development Title, and is appropriate for the physical characteristics of the site. The project site must be found to be adequately served by public infrastructure and services, including utilities,

roadways, water, sewer, and drainage facilities, and the proposed improvements must be compatible with existing and planned infrastructure. In addition, the proposed use must be compatible with surrounding properties and the neighborhood, not adversely affect nearby development or livability, and not create nuisances such as excessive odor, dust, noise, vibration, smoke, heat, or glare beyond ambient conditions.

These findings can be made because the proposed Administrative Use Permit is consistent with the Community Commercial (C/C) General Plan designation and C-C (Community Commercial) zoning, where the proposed limited-service commercial kitchen is a conditionally permitted use. The project site is physically suitable for the proposed development, will be adequately served by on-site water, wastewater, drainage, and public roadway access, and will comply with all applicable Development Title standards and recommended Conditions of Approval. The proposed project has been designed to be compatible with surrounding commercial uses and nearby legal nonconforming residences through compliance with applicable development, noise, and landscaping requirements. In addition, the project is not expected to create nuisances or adversely affect neighboring properties, and all required permits and agency reviews will ensure that utilities, drainage, access, and site improvements are adequate and that the development complies with all applicable County regulations.

Staff determined that all Administrative Use Permit findings can be made in the affirmative, as found in Attachment F.

Merger of Parcels

The proposed project includes improvements among four parcels, APNs: 193-170-17, -18, -19, and -20. Because these improvements are part of a single development and bisect property lines, the applicant must submit for a Merger of Parcels to merge these into a single, legal lot. This has been included as recommended Condition of Approval No. 1.d.

Environmental Determination

An Initial Study for the project was prepared by the County, dated December 12, 2025. The Initial Study concluded that any impacts associated with the development of the proposed project may be reduced to less than significant levels with the incorporation of mitigation measures. The applicant has agreed to participate in the San Joaquin Council of Government's San Joaquin Multi-Species and Habitat Conservation Plan (SJMSCP), and participation in the plan was assumed in the Initial Study as a mitigation measure. The corresponding Mitigated Negative Declaration (MND) was posted for review, and public comment closed on January 14, 2025. A Mitigation Monitoring and Reporting Program (MMRP) has been drafted (Attachment D) that includes participation in the SJMSCP, and adoption of the MND and MMRP is included in staff's recommendation.

RECOMMENDATION

It is recommended that the Planning Commission:

1. Forward to the Board of Supervisors the Mitigated Negative Declaration (Attachment C) and Mitigation Monitoring and Reporting Program (Attachment D) with a recommendation to adopt;
2. Forward to the Board of Supervisors the Findings for General Plan Map Amendment (Attachment E) with a recommendation to adopt;
3. Forward to the Board of Supervisors General Plan Map Amendment No. PA-2400220 (Attachment A) with a recommendation to adopt;
4. Forward to the Board of Supervisors the Findings for Administrative Use Permit No. PA-2400217 (Attachment F) with a recommendation to adopt; and
5. Forward to the Board of Supervisors Administrative Use Permit No. PA-2400217 and the corresponding recommended Conditions of Approval (Attachment G) with a recommendation to approve.

Attachments:

Attachment A – General Plan Map and Site Plan
Attachment B – Agency Response Letters
Attachment C – Environmental Document
Attachment D – Mitigated Monitoring and Reporting Program
Attachment E – Findings for General Plan Map Amendment
Attachment F – Findings for Administrative Use Permit
Attachment G – Conditions of Approval

This page intentionally left blank.



SAN JOAQUIN
—COUNTY—
Greatness grows here.

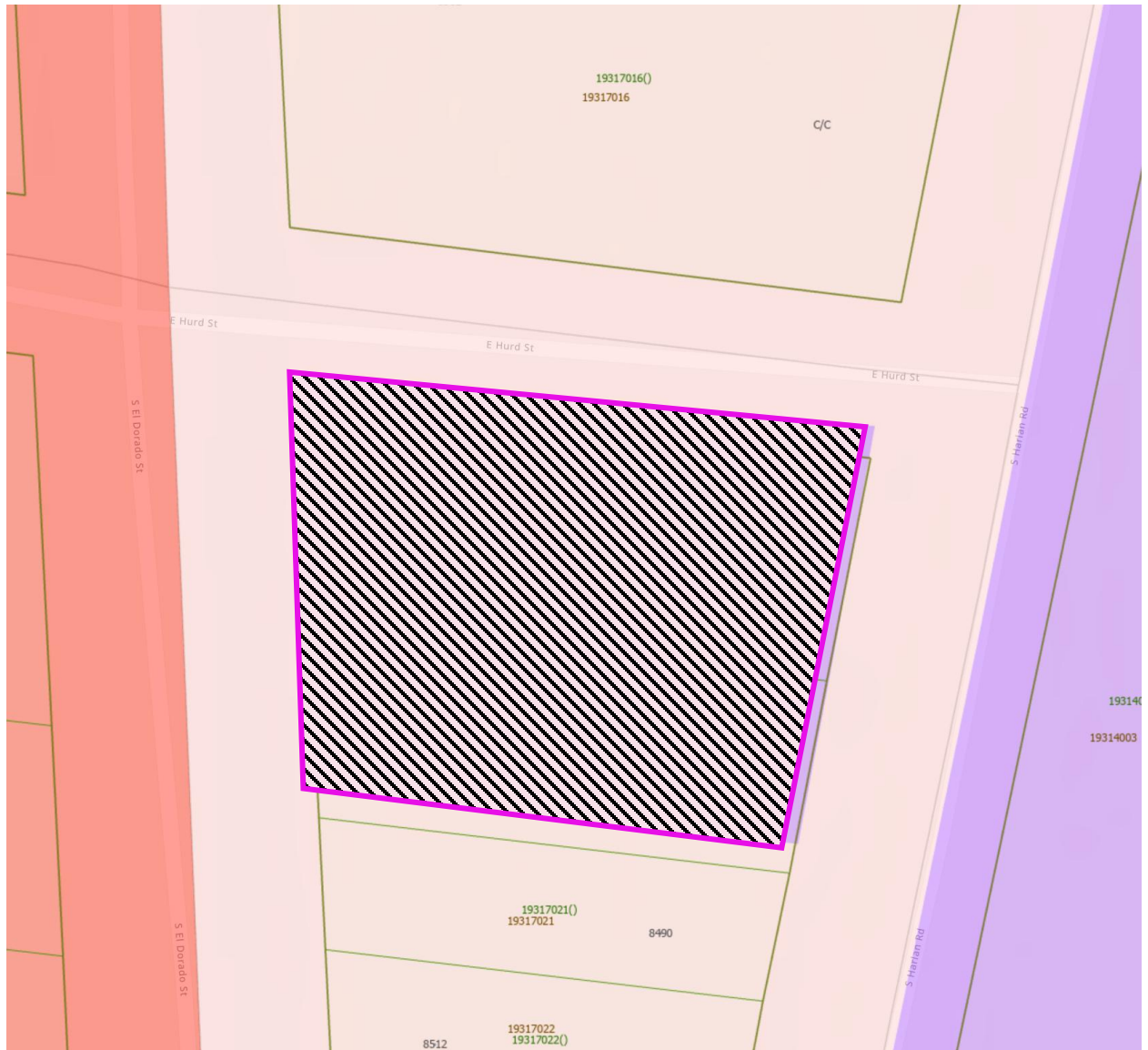
Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment A **General Plan Map and** **Site Plan**

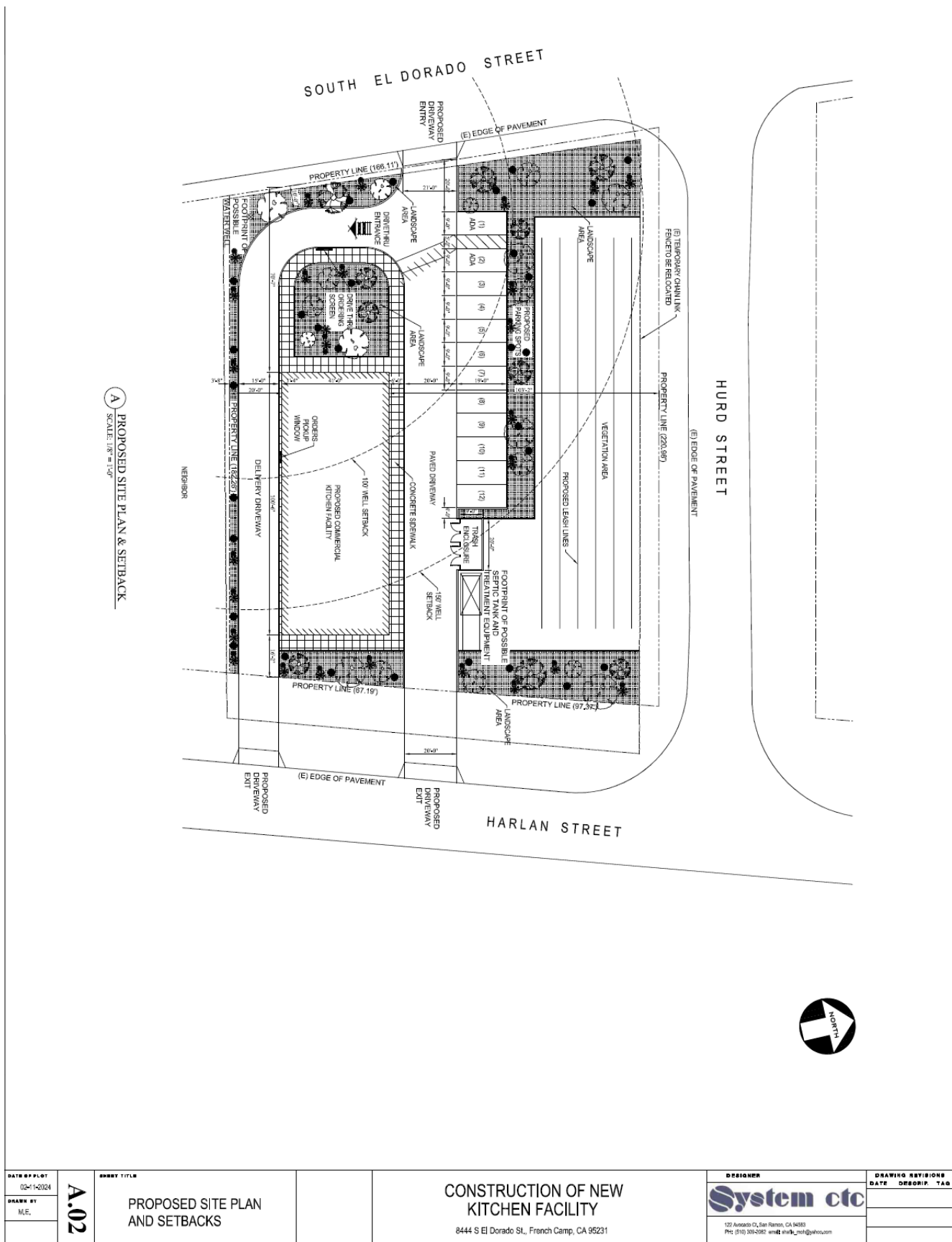
This page intentionally left blank.

General Plan Designation



Existing General Plan Designation: I/G (General Industrial)

Proposed General Plan Designation: C/C (Community Commercial)





SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment B **Agency Response** **Letters**

This page intentionally left blank.



SAN JOAQUIN
COUNTY
Greatness grows here.



Department of Public Works

Fritz Buchman, Director

Alex Chetley, Deputy Director - Development

Kristi Rhea, Deputy Director - Administration

David Tolliver, Deputy Director - Operations

Najee Zarif, Deputy Director - Engineering

February 13, 2026

MEMORANDUM

TO: Community Development Department
CONTACT PERSON: Alisa Goulart

FROM: Shayan Rehman, Engineering Services Manager ^{SR}
Development Services Division

SUBJECT: PA-2400217, -219, -220 (A, ME, GP, PreApp); An Administrative Use Permit for a commercial kitchen facility selling prepared food through drive through. No on-site eating facilities, take out only. This parcel is located in the urban community of French Camp and will utilize onsite services: well, septic system, and storm water drainage. Driveways are proposed on both S. El Dorado Street and S. Harlan Road. This application is tied to PA-2400219, a Merger to merge 4 lots into one and PA-2400220, a General Plan Map Amendment to amend the current designation of I/L to C/C to correspond with the current zoning of C-C. These lots are not under Williamson Act contract; located on the south side of E. Hurd Road, bordered by S. El Dorado Street on the west and S. Harlan Road on the east, French Camp. (Supervisory District 3)

OWNER: Alawdi Zakrya

APPLICANT: Mohamed S. Elshafei

ADDRESS: 12 E. Hurd Road, French Camp

APN: 193-170-17, -18, -19, -20

INFORMATION:

The site is not currently located within a Federal Emergency Management Agency Designated Flood Hazard Area.

El Dorado Street has an existing and planned right-of-way width of 100 feet.

Hurd Road has an existing and planned right-of-way width of 60 feet.

Harlan Road has an existing and planned right-of-way width of 80 feet.

1810 East Hazelton Avenue | Stockton, California 95205 | T 209 468 3000 | F 209 468 2999
f Follow us on Facebook @ PublicWorksSJC Visit our website: www.sjgov.org/pubworks

REQUIREMENTS:

The applicant shall complete the following requirements before the Department of Public Works can support or deem complete the application for this project:

- 1) ~~It is the responsibility of the applicant to ensure that a written exemption for water service and sewer service from the Environmental Health Department is on file or a current will-serve letter for water service and sewer service is on file. (Development Title Section 9-602.030, 9-604.020, 9-606.020)~~
- 2) ~~The applicant shall submit for review and approval, a queueing analysis prepared by a registered civil engineer certifying that traffic will not back onto El Dorado street from the Drive Thru.~~
- 3) ~~The applicant shall submit a revised site plan incorporating the recommendations from the Commercial Kitchen Queueing Assessment dated June 20, 2025.~~

~~Upon satisfaction of the above requirements, the following Conditions of Approval shall apply. Additional and/or revised Conditions of Approval may be necessary based upon the completed application.~~

RECOMMENDATIONS:

- 1) An encroachment permit shall be required for all work within road right-of-way. (Note: Driveway encroachment permits are for flatwork only – all vertical features, including but not limited to fences, walls, private light standards, rocks, landscaping and cobbles are not allowed in the right-of-way.) (Development Title Sections 9-607.020 and 9-607.040)
- 2) The driveway approaches shall be improved in accordance with the requirements of San Joaquin County Improvement Standards Drawing No. 14 prior to issuance of the occupancy permit. (Development Title Section 9-607.040)
- 3) The roadway improvements for Hurd Road shall be constructed in conformance with the standards for one-half of a sixty (60) foot wide right-of-way Rural Street (this includes realignment of traffic striping and marking as necessary). The improvements shall be in conformance with the current Improvement Standards of the County of San Joaquin. Improvement plans, specifications and engineer's estimate prepared by a registered civil engineer shall be submitted for review and are subject to plan check, field inspection fees and must be approved by the County of San Joaquin Department of Public Works prior to issuance of the occupancy permit. (Development Title Section 9-505, Section 9-600, Section 9-608.010[c] and R-92-814)
- 4) The Traffic Impact Mitigation Fee shall be required for this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. The fee shall be automatically adjusted July 1 of each year by the Engineering Construction Cost Index as published by the Engineering News Record. (Resolutions R-00-433)

- 5) The Regional Transportation Impact Fee shall be required for this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. (Resolution R-06-38)
- 6) The Water Supply Facilities Impact Mitigation Fee shall be required for this development. The fee is due and payable prior to issuance of the building permit. The fee will be based on the current schedule at the time of payment. (Development Title Section 9-803.020 and Resolutions R-91-327, R-94-185 and R-97-5)
- 7) The Flood Protection Development Impact Fee shall be required for this application. The fee is due and payable prior to issuance of the building permit. The fee will be based on the current schedule at the time of payment. (Resolutions R-22-135)
- 8) The developer shall provide drainage facilities in accordance with the San Joaquin County Development Standards. Retention basins shall be fenced with six (6) foot high chain link fence or equal when the maximum design depth is 18 inches or more. Required retention basin capacity shall be calculated and submitted along with a drainage plan for review and approval, prior to release of building permit. (Development Title Section 9-606)
- 9) A copy of the Final Site Plan shall be submitted prior to release of building permit.
- 10) This project is subject to the NPDES Region-Wide Permit requirements and shall comply with the following conditions. Prior to release of the building permit, plans and calculations shall be submitted and approved by the Public Works Department – Water Resources Division (209-468-9360):
 - a) Treatment: A registered professional engineer shall design the site to treat the 85th percentile storm as defined in the County's 2023 Storm Water Quality Control Criteria Plan (SWQCCP).
 - b) Hydromodification: A registered professional engineer shall design the site to comply with the volume reduction requirement outlined in the County's 2023 SWQCCP
 - c) Trash: A registered professional engineer shall design the site to comply with the trash control requirement outlined in the County's 2023 SWQCCP.
- 11) Prior to release of the building permit, the owner shall enter into an agreement with San Joaquin County for post-construction maintenance of stormwater quality facilities.
- 12) Prior to release of the building permit the applicant shall submit a Storm Water Quality Control Plan (SWQCP) to Public Works that complies with all requirements of the 2023 SWQCCP
- 13) Prior to release of the building permit the applicant shall submit the Storm Water Pollution Prevention Plan (SWPPP) to Public Works. A copy of the approved SWPPP and all required records, updates, test results and inspection reports shall be maintained on the construction site and be available for review upon request.
- 14) Applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) and comply with the State "General Permit for Storm Water Discharges Associated with Construction Activity". The Waste Discharge Identification Number (WDID),

PA-2400217, -219, -220 (A, ME, GP) -4-

issued by SWRCB, shall be submitted to Public Works prior to release of the building permit. Contact the SWRCB at 1-866-563-3107 for further information.

SR:GM



Environmental Health Department

Jasjit Kang, REHS, Director

Muniappa Naidu, REHS, Assistant Director

PROGRAM COORDINATORS

Jeff Carruesco, REHS, RDI

Willy Ng, REHS

Steven Shih, REHS

Elena Manzo, REHS

Natalia Subbotnikova, REHS

November 7, 2024

To: San Joaquin County Community Development Department
Attention: Alisa Goulart

From: Sastina Thammavongsa; (209) 616-3068 
Environmental Health Specialist

RE: **PA-2400217 (A), PA-2400219 (ME), PA-2400220 (GP), Early Consultation/ Re-referral, SU-2400282, SU-2400283, SU-2400284**
12 E. Hurd Road, French Camp, APN: 193-170-17, -18, -19, -20

The following requirements have been identified as pertinent to this project. Other requirements may also apply. These requirements cannot be modified

- 1) A soil suitability and nitrate loading study incorporating proposed staff and customer use shall be submitted to the Environmental Health Department, indicating that the area is suitable for septic system usage. The studies must be approved by the Environmental Health Department prior to submission of a General Plan Amendment or Zone Reclassification application (San Joaquin County Development Title, Section 9-604.010(d)). The fee will be based on the current schedule at the time of payment.

The sewage disposal system shall comply with the onsite wastewater treatment systems standards of San Joaquin County prior to approval. A percolation test conducted in accordance with the E.P.A. Design Manual - Onsite Wastewater and Disposal Systems is required for each parcel. The fee will be based on the current schedule at the time of payment.

- 2) Prior to issuance of building permit, submit to the Environmental Health Department revised site plans showing the location and configuration of any existing and proposed sewage disposal systems, along with the area required to be reserved for future sewage disposal repair/replacement (area for 100% sewage disposal replacement). The plans shall include the design calculations, including the maximum number of persons the sewage disposal system is proposed to serve. In addition, show on revised plans that the disposal field area will be barricaded so it cannot be driven over, parked on, or used as a storage area. This disposal field area must be used for that specific purpose only, and it cannot contain any underground utility lines (San Joaquin County Development Title, Section 9-605.010(c)(3)(5)).
- 3) Construction of an individual sewage disposal system(s) under permit and inspection by the Environmental Health Department is required at the time of development (San Joaquin County Development Title, Section 9-605.010).

1868 E. Hazelton Avenue | Stockton, California 95205 | T 209 468-3420 | F 209 464-0138 | www.sjcehd.com

- 4) Construction of an individual domestic water well under permit and inspection by the Environmental Health Department is required at the time of development (San Joaquin County Development Title, Section 9-601.010 (b)).
- 5) Submit two (2) hardcopy sets, or one (1) electronic version, of food facility plans to the Environmental Health Department for review and approval prior to issuance of building permit(s) (California Retail Food Code, Article 1, 114380). The fee will be based on the current schedule at the time of payment.
- 6) A valid permit from EHD is required prior to operating food facility (California Retail Food Code, Chapter 13, Article 1, Section 14381)
- 7) Submit Water Provision Declaration form and Supplemental Water Provision Declaration form to the Environmental Health Department for review. Please contact Natalia Subbotnikova, Program Coordinator, Small Public Water System Program, at (209) 468-0338, for any questions.
- 8) Applicant shall contact Natalia Subbotnikova, Program Coordinator, Small Public Water System Program, at (209) 468-0338, to determine if the existing well can be permitted as a public water system prior to issuance of building permits. If a public water system is required, applicant shall submit a Small Public Water System preliminary technical report to the California State Water Resources Control Board, Division of Drinking Water (Water Board) at least six months before initiating construction of any water related improvement, as defined. The issuance of a permit to operate a small public water system by the local primacy agency (EHD) is prohibited without the concurrence of the Water Board. Please contact

Gena.Farley@waterboards.ca.gov or 209-948-7488, concerning the requirements for preliminary technical report submittal prior to issuance of building permits.

If the Water Board determines that an onsite well shall be used as the potable water source, a permit application to operate Small Public Water System shall be submitted to the EHD for approval prior to issuance of building permits. To issue a permit to operate, concurrence from the Water Board is required. A yearly permit to operate a public water system will be required by the EHD prior to sign off of the certificate of final occupancy (San Joaquin County Development Title, Section 9-602.010 and 9-601.030.).

The supplier must possess adequate financial, managerial, and technical capability to assure delivery of pure, wholesome, and potable drinking water in accordance with San Joaquin County Development Title, Sections 9-602.010 and 9-601.030 and C.C.R., Title 22, and Health and Safety Code, Section 116525 116570.

- 9) The existing private water wells shall be tested for nitrates with the results submitted to the Environmental Health Department prior to recordation of the Parcel Map. Samples are to be taken and analyzed by a State-approved laboratory. (San Joaquin County Development Title, Section 9-601.020(j)).
- 10) According to EHD records, there are existing domestic well records SR0062006 and SR0062471, and these wells shall be destroyed under permit and inspection by the EHD (San Joaquin County Development Title, Section 9-605.010 & 9-601.020)

- 11) Any geotechnical drilling shall be conducted under permit and inspection by The Environmental Health Department (San Joaquin County Development Title, Section 9-601.010(b) and 9-601.020(i)).
- 12) Before any hazardous materials/waste can be stored or used onsite, the owner/operator must report the use or storage of these hazardous materials to the California Environmental Reporting System (CERS) at cers.calepa.ca.gov/ and comply with the laws and regulations for the programs listed below (based on quantity of hazardous material in some cases). The applicant may contact the Program Coordinator of the CUPA program, Elena Manzo (209) 953-7699, with any questions.
 - a. Any amount but not limited to the following hazardous waste; hazardous material spills, used oil, used oil filters, used oil-contaminated absorbent/debris, waste antifreeze, used batteries or other universal waste, etc. – **Hazardous Waste Program** (Health & Safety Code (HSC) Sections 25404 & 25180 et sec.)
 - b. Onsite treatment of hazardous waste – **Hazardous Waste Treatment Tiered Permitting Program** (HSC Sections 25404 & 25200 et sec. & California Code of Regulations (CCR), Title 22, Section 67450.1 et sec.)
 - c. Reportable quantities of hazardous materials-reportable quantities are 55 gallons or more of liquids, 500 pounds for solids, or 200 cubic feet for compressed gases, with some exceptions. Carbon dioxide is a regulated substance and is required to be reported as a hazardous material if storing 1,200 cubic feet (137 pounds) or more onsite in San Joaquin County – **Hazardous Materials Business Plan Program** (HSC Sections 25508 & 25500 et sec.)
 - d. Any amount of hazardous material stored in an Underground Storage Tank – **Underground Storage Tank Program** (HSC Sections 25286 & 25280 et sec.)
 - i. If an underground storage tank (UST) system will be installed, a permit is required to be submitted to, and approved by, the San Joaquin County Environmental Health Department (EHD) before any UST installation work can begin.
 - ii. Additionally, an EHD UST permit to operate is required once the approved UST system is installed.
 - e. Storage of at least 1,320 gallons of petroleum aboveground or any amount of petroleum stored below grade in a vault – **Aboveground Petroleum Storage Program** (HSC Sections 25270.6 & 25270 et sec.)
 - i. **Spill Prevention, Countermeasures and Control (SPCC) Plan requirement**
 - f. Threshold quantities of regulated substances stored onsite - **California Accidental Release Prevention (CalARP) Program** (Title 19, Section 2735.4 & HSC Section 25531 et sec.)
 - i. **Risk Management Plan requirement for covered processes**



S J C O G, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0574 • Email: boyd@sjcog.org

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

**SJMSCP RESPONSE TO LOCAL JURISDICTION (RTLJ)
ADVISORY AGENCY NOTICE TO SJCOG, Inc.**

To: Alisa Goulart, San Joaquin County, Community Development Department
From: Laurel Boyd, SJCOG, Inc. Phone: (209) 235-0574 Email: boyd@sjcog.org
Date: November 5, 2024
Local Jurisdiction Project Title: PA-2400217 (A), PA-2400219 (ME), PA-2400220 (GP)
Assessor Parcel Number(s): 193-170-17 to -20
Local Jurisdiction Project Number: PA-2400217 (A), PA-2400219 (ME), PA-2400220 (GP)
Total Acres to be converted from Open Space Use: Unknown
Habitat Types to be Disturbed: Multi-Purpose Open Space Habitat Land
Species Impact Findings: Findings to be determined by SJMSCP biologist.

Dear Ms. Goulart:

SJCOG, Inc. has reviewed the project referral for PA-2400217 (A), PA-2400219 (ME), PA-2400220 (GP). This project consists of an Administrative Use Permit for a commercial kitchen facility selling prepared food through drive through. No on-site eating facilities, take out only. This parcel is located in the urban community of French Camp and will utilize onsite services: well, septic system, and storm water drainage. Driveways are proposed on both S. El Dorado Street and S. Harlan Road. This application is tied to PA-2400219, a Merger to merge 4 lots into one and PA-2400220, a General Plan Map Amendment to amend the current designation of I/L to C/C to correspond with the current zoning of C-C. The project site is on the south side of E. Hurd Road, bordered by S. El Dorado Street on the west and S. Harland Road on the east, French Camp (APN/Address: 193-170-17 to -20 / 12 E. Hurd Road, French Camp).

San Joaquin County is a signatory to San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Participation in the SJMSCP satisfies requirements of both the state and federal endangered species acts, and ensures that the impacts are mitigated below a level of significance in compliance with the California Environmental Quality Act (CEQA). The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measure are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP. Although participation in the SJMSCP is voluntary, Local Jurisdiction/Lead Agencies should be aware that if project applicants choose against participating in the SJMSCP, they will be required to provide alternative mitigation in an amount and kind equal to that provided in the SJMSCP.

This Project is subject to the SJMSCP. This can be up to a 30 day process and it is recommended that the project applicant contact SJMSCP staff as early as possible. It is also recommended that the project applicant obtain an information package. <http://www.sjcog.org>

Please contact SJMSCP staff regarding completing the following steps to satisfy SJMSCP requirements:

- Schedule a SJMSCP Biologist to perform a pre-construction survey ***prior to any ground disturbance***
- SJMSCP Incidental take Minimization Measures and mitigation requirement:
 1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
 2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
 3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:

- a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
- b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
- c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

- Receive your Certificate of Payment and release the required permit

It should be noted that if this project has any potential impacts to waters of the United States [pursuant to Section 404 Clean Water Act], it would require the project to seek voluntary coverage through the unmapped process under the SJMSCP which could take up to 90 days. It may be prudent to obtain a preliminary wetlands map from a qualified consultant. If waters of the United States are confirmed on the project site, the Corps and the Regional Water Quality Control Board (RWQCB) would have regulatory authority over those mapped areas [pursuant to Section 404 and 401 of the Clean Water Act respectively] and permits would be required from each of these resource agencies prior to grading the project site.

If you have any questions, please call (209) 235-0574.



S J C O G , I n c .

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

SJMSCP HOLD

TO: Local Jurisdiction: Community Development Department, Planning Department, Building Department, Engineering Department, Survey Department, Transportation Department,
Other:

FROM: Laurel Boyd, SJCOG, Inc.

**DO NOT AUTHORIZE SITE DISTURBANCE
DO NOT ISSUE A BUILDING PERMIT
DO NOT ISSUE _____ FOR THIS PROJECT**

The landowner/developer for this site has requested coverage pursuant to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). In accordance with that agreement, the Applicant has agreed to:

- 1) SJMSCP Incidental Take Minimization Measures and mitigation requirement:
 1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
 2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
 3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.
- Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

Project Title: PA-2400217 (A), PA-2400219 (ME), PA-2400220 (GP)

Landowner: Alawdi Zakrya

Applicant: Mohammad S. Elshafei

Assessor Parcel #s: 193-170-17 to -20

T _____, R _____, Section(s): _____

Local Jurisdiction Contact: Alisa Goulart

The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measures are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP.



SAN JOAQUIN COUNCIL OF GOVERNMENTS

555 E. Weber Avenue • Stockton, California 95202 • P 209.235.0600 • F 209.235.0438 • www.sjcog.org

November 5, 2024

Alisa Goulart
Community Development Department
1810 E. Hazelton Ave.,
Stockton, CA 95205

Sonny Dhalwal
CHAIR

Kevin Lincoln
VICE-CHAIR

Diane Nguyen
EXECUTIVE DIRECTOR

Member Agencies
CITIES OF
ESCALON,
LATHROP,
LODI,
MANTECA,
RIPON,
STOCKTON,
TRACY,
AND
THE COUNTY OF SAN
JOAQUIN

Re: PA-2400217, -219, -220

Dear Alisa Goulart,

The San Joaquin Council of Governments (SJCOC), acting as the Airport Land Use Commission (ALUC), has reviewed an Administrative Use Permit for a commercial kitchen facility selling prepared food through drive through. No on-site eating facilities, take out only. This parcel is in the urban community of French Camp and will utilize onsite services: well, septic system, and storm water drainage. Driveways are proposed on both S. El Dorado Street and S. Harlan Road. This application is tied to PA-2400219, a Merger to merge 4 lots into one and PA-2400220, a General Plan Map Amendment to amend the current designation of I/L to C/C to correspond with the current zoning of C-C.

AIRPORT LAND USE COMMISSION'S REVIEW

This project is in the Stockton Metropolitan Airport Traffic Pattern Zone (TPZ) 7b.

SJCOC, as ALUC, finds that this project is compatible with the 2018 San Joaquin County Airport Land Use Compatibility Plan (ALUCP). (<https://www.sjcog.org/ALUC>)

SJCOC would like to provide standards and project design conditions that comply with the Airport Land Use Compatibility Plan as a reference guide. *Note: Jurisdictions determine if the following standards and conditions apply to this project.*

1. New land uses that may cause visual, electronic, or increased bird strike hazards to aircraft in flight shall not be permitted within any airport's influence area. Specific characteristics to be avoided include:
 - a. Glare or distracting lights which could be mistaken for airport lights. Reflective materials are not permitted to be used in structures or signs (excluding traffic directing signs).
 - b. Sources of dust, steam, or smoke which may impair pilot visibility.
 - c. Sources of electrical interference with aircraft communications or navigation. No transmissions which would interfere with aircraft radio communications or navigational signals are permitted.
 - d. Occupied structures must be soundproofed to reduce interior noise to 45 decibels (dB) according to State guidelines.
 - e. Within the airport's influence area, ALUC review is required for any proposed object taller than 100 feet above ground level (AGL).

2. Regardless of location within San Joaquin County, ALUC review is required in addition to Federal Aviation Administration (FAA) notification in accordance with Code of Federal Regulations, Part 77, (<https://oeaaa.faa.gov/oeaaa/external/portal.jsp>) for any proposal for construction or alteration under the following conditions:
 - a. If requested by the FAA.
 - b. Any construction or alteration that is more than 200 ft. AGL at its site.
 - c. Any construction or alteration that exceeds an imaginary surface extending outward and upward at any of the following slopes:
 - i. 100 to 1 for a horizontal distance of 20,000 ft. of a public use or military airport from any point on the runway of each airport with its longest runway more than 3,200 ft.
 - ii. 50 to 1 for a horizontal distance of 10,000 ft. of a public use or military airport from any point on the runway of each airport with its longest runway no more than 3,200 ft.
 - iii. 25 to 1 for a horizontal distance of 5,000 ft. of the nearest takeoff and landing area of a public use heliport
 - d. Any highway, railroad, or other traverse way whose prescribed adjusted height would exceed the above noted standards.
 - e. Any construction or alteration located on a public use airport or heliport regardless of height or location.

Thank you again for the opportunity to comment. Please contact ALUC staff Isaiah Anderson (209-235-0452 or ianderson@sjcog.org) if you have any questions or comments.

Sincerely,

Isaiah Anderson

Isaiah Anderson
Associate Regional Planner



April 7, 2025

Wetlands

	Estuarine and Marine Deepwater		Freshwater Emergent Wetland		Lake
	Estuarine and Marine Wetland		Freshwater Forested/Shrub Wetland		Other
			Freshwater Pond		Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)
This page was produced by the NWI mapper



Department of Conservation
Geologic Energy Management Division

Gavin Newsom, Governor
Jennifer Lucchesi, Director
715 P Street, MS 1803
Sacramento, CA. 95814
T: (916) 445-5986

January 6, 2026

VIA EMAIL

San Joaquin Community Development Department
Alisa Goulart
1810 East Hazelton Ave, Stockton, CA 95205
Alisa.Goulart@sjgov.org

Assessor Parcel Number(s): 193-170-17, -18, -19, -20
Property Owner(s): N/A
Project Location Address: S. El Dorado St. & S. Harlan Rd.

PROJECT TITLE: PA-2400217, -219, -220 Commercial Kitchen With
Drive-Thru, With Merger and General Plan Map Amendment

Public Resources Code (PRC) section 3208.1 establishes re-abandonment responsibility when previously plugged and abandoned oil, gas or geothermal wells will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near previously abandoned oil, gas, and geothermal wells.

The California Geologic Energy Management Division (CalGEM) has received the above-referenced project dated 12/18/2025. To assist local permitting agencies, property owners, and developers in making safe and practical land use decisions regarding potential development near oil, gas, or geothermal wells, CalGEM provides a table in the attached enclosure of the wells within the parcel boundary or in its vicinity, based on CalGEM's Well Finder database (<https://maps.conservation.ca.gov/doggr/wellfinder/>).

CalGEM categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking at the landowner's expense if there is a need to access a well. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment (consisting of well servicing rig, pumping equipment, pipe trailer) to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure. Impermeable barriers such as

State of California Natural Resources Agency | Department of Conservation
Northern District

Orcutt Office and Mail: 195 S. Broadway, Suite 101, Orcutt, CA 93455 | T: (805) 937-7246 | F: (805) 937-0673
Sacramento Office and Mail: 715 P Street, MS 1804, Sacramento, CA 95814 | T: (916) 322-1110 | F: (916) 445-3319
Ventura Office: 1000 S. Hill Road, Suite 116, Ventura, CA 93003 | T: (805) 937-7246 | F: (805) 654-4765
Ventura Mail: 195 S. Broadway, Suite 101, Orcutt, CA 93455
conservation.ca.gov

asphalt, concrete, and plastic may trap hazardous gases and liquids underneath and could create a safety hazard if built over a well that later develops a leak.

CalGEM recommends that any well for which access is impeded or built over, against CalGEM's advice, should be evaluated by a qualified petroleum professional for compliance with the statutory objectives of isolating all hydrocarbon-bearing strata; protecting underground and surface waters; prevention of subsequent damage to life, health, property, and other resources; and prevention of loss of oil, gas, or reservoir energy. CalGEM recommends that wells that do not meet these standards are abandoned or re-abandoned prior to construction. The well information can be accessed through CalGEM's Well Finder database mentioned above. PRC section 3208, subdivision (a), provides the primary statutory authority for CalGEM to oversee adequate abandonment of wells. Additionally, CalGEM has developed the regulatory guidance for operators to be followed during well abandonment, which are listed within California Code of Regulation, title 14 (CCR) section 1723 and associated sub-sections (for onshore wells), and section 1745 and associated sub-sections (for offshore wells).

There is no guarantee that a well abandoned in compliance with current Division requirements as prescribed by law will not start leaking in the future. Due to the inability to predict all subsurface conditions or changes, it always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. CalGEM acknowledges wells plugged and abandoned to the most current Division requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantee that such abandoned wells will not leak.

CalGEM advises that all wells identified on the development parcel prior to, or during, development activities be tested for liquid and gas leakage. Surveyed locations in Latitude and Longitude, NAD 83 decimal format, and leak testing results should be provided to CalGEM. CalGEM expects any wells found leaking to be reported to CalGEM immediately.

PRC section 3208.1 gives CalGEM the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for re-abandonment as:

1. The property owner - If the well was plugged and abandoned in conformance with Division requirements at the time of abandonment, and in its current condition does not pose an immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem, then the owner of the property on which the well is located shall obtain all rights necessary to re-abandon the well and be responsible for the re-abandonment.
2. The person or entity causing construction over or near the well - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be re-abandoned, or to follow the advice of the supervisor or district deputy not to undertake construction that impedes access, then the person or entity causing the construction over or near the well shall obtain all rights necessary to re-abandon the well and be responsible for the re-abandonment.

3. The party or parties responsible for disturbing the integrity of the abandonment - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the re-abandonment.

Should any wells require abandonment or re-abandonment, the responsible party must submit a Notice of Intention (NOI) to CalGEM through WellSTAR. The NOI form can be accessed in the 'Plugging and Abandonment' section of the following link:
https://www.conservation.ca.gov/calgem/for_operators.

No well work may be performed on any oil, gas, or geothermal well without written approval from CalGEM. Well work requiring approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other re-abandonment work. CalGEM also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. CCR section 1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below the surface of the ground. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this regulation, a permit from CalGEM is required before work can start.

CalGEM makes the following additional recommendations to the local permitting agency, property owner, and developer:

1. To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, CalGEM recommends that information regarding the below identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.
2. CalGEM recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development.

As indicated in PRC section 3106, CalGEM has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to CalGEM's authority to order work on wells pursuant to PRC sections 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC sections 3236, 3236.5, and 3359 for violations within CalGEM's jurisdictional authority. CalGEM does not regulate grading, excavations, or other land use issues.

Should you have any questions, or if any wells are encountered that were not part of this letter, contact CalGEM at 916-322-1110 or via email at CalGemNorthern@conservation.ca.gov

Sincerely,

May Soe

May Soe
Supervising Oil & Gas Engineer – Northern District – Sacramento

Enclosure

Enclosure: The wells listed below are reported to be located within and nearby the parcel boundary and may have future access impeded.

API No.	Well Name
There are no wells in the project area	



Pacific Gas and Electric Company
PGEPlanReview@pge.com
Land Management
300 Lakeside Drive
Oakland, CA 94612

January 17, 2026

Re: Gas and Electric Transmission and Distribution

Dear San Joaquin County Planning,

Thank you for providing PG&E the opportunity to review your proposed plans for PA-2400217, -219, -220 (A, ME, GP). Our review indicates the proposed work and/or improvements do not appear to directly interfere with any of PG&E's existing facilities or land rights.

Please note, this is our preliminary review and PG&E may provide additional comments in the future as the project progresses or if additional information is provided. If there are subsequent modifications made to the design, we ask that the plans be resubmitted for review to the email address listed below.

If PG&E gas and/or electric service are needed, please submit an application through PG&E's Your Project Portal: [Sign In \(yourprojects-pge.com\)](https://yourprojects-pge.com).

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of two (2) working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

If you have any questions regarding this response, please contact me at (877) 259-8314 or pgeplanreview@pge.com

Sincerely,

PG&E Plan Review Team
Land Management

This page intentionally left blank.



SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment C **Environmental** **Document**

This page intentionally left blank.

INITIAL STUDY/NEGATIVE DECLARATION
[Pursuant to Public Resources Code Section 21080(c) and California Code of Regulations, Title 14, Sections 15070-15071]

LEAD AGENCY: San Joaquin County Community Development Department

PROJECT APPLICANT: Mohamed S. Elshafei

PROJECT TITLE/FILE NUMBER(S): PA-2400217 (AUP), PA-2400219 (ME), and PA-2400220 (GP)

PROJECT DESCRIPTION: This project consists of 3 Planning applications on 4 parcels as follows:

- Administrative Use Permit Application PA-2400217: To establish a 4,128 square foot commercial kitchen to prepare food for sale for takeout only. A drive through will be utilized for pick up. The project will not have indoor or outdoor dining amenities. The project will have an entrance driveway off of S. El Dorado Street and 2 exits onto S. Harlan Road. A private onsite well will be utilized for water and a septic system will provide sanitary sewer. Storm water will be detained on site. (Use Type: Eating and Drinking Establishment – Limited)
- Merger of Parcels PA-2400219: To merge 4 adjacent parcels into one 0.81 acre parcel.
- General Plan Map Amendment PA-2400220: To amend the General Plan designation of 4 adjacent parcels totaling 0.81 acres from I/G (General Industrial) to C/C (Community Commercial) to correspond with the C-C (Community Commercial) zoning.

The project site is comprised of 4 adjacent parcels located on the south side of E. Hurd Street, bordered by S. El Dorado Street on the west side and S. Harlan Road on the east side, in French Camp.

ASSESSOR PARCEL NOS.: 193-170-17, 193-170-18, 193-170-19, and 193-170-20

ACRES: 0.81 acres

GENERAL PLAN: I/G

ZONING: C-C

POTENTIAL POPULATION, NUMBER OF DWELLING UNITS, OR SQUARE FOOTAGE OF USE(S):
A 4,128 square foot commercial building for an Eating and Drinking Establishment – Limited Use.

SURROUNDING LAND USES:

NORTH: Community Commercial (C-C) zoning with nonconforming industrial uses and residences; E. Hurd Street.
SOUTH: Undeveloped Community Commercial zoned, undeveloped parcels; E. Lynn Avenue.
EAST: Southern Pacific Railroad; S. Harlan Road; 2 cemeteries /Agriculture with scattered residences.
WEST: S. El Dorado Street; Interstate 5; S. Manthey Road; Warehouse uses; Agricultural with scattered residences

REFERENCES AND SOURCES FOR DETERMINING ENVIRONMENTAL IMPACTS:

Original source materials and maps on file in the Community Development Department including: all County and City general plans and community plans; assessor parcel books; various local and FEMA flood zone maps; service district maps; maps of geologic instability; maps and reports on endangered species such as the Natural Diversity Data Base; noise contour maps; specific roadway plans; maps and/or records of archeological/historic resources; soil reports and maps; etc.

Many of these original source materials have been collected from other public agencies or from previously prepared EIR's and other technical studies. Additional standard sources which should be specifically cited below include on-site visits by staff (August 1, 2024); staff knowledge or experience; and independent environmental studies submitted to the County as part of the project application.

TRIBAL CULTURAL RESOURCES:

Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, is there a plan for consultation that includes,

for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.?

No

GENERAL CONSIDERATIONS:

1. Does it appear that any environmental feature of the project will generate significant public concern or controversy?

☐ Yes ☒ No

Nature of concern(s): Enter concern(s).

2. Will the project require approval or permits by agencies other than the County?

☐ Yes ☒ No

Agency name(s): Enter agency name(s).

3. Is the project within the Sphere of Influence, or within two miles, of any city?

☒ Yes ☐ No

City: City of Stockton

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| ☐ Aesthetics | ☐ Agriculture and Forestry Resources | ☐ Air Quality |
| ☐ Biological Resources | ☐ Cultural Resources | ☐ Energy |
| ☐ Geology / Soils | ☐ Greenhouse Gas Emissions | ☐ Hazards & Hazardous Materials |
| ☐ Hydrology / Water Quality | ☐ Land Use / Planning | ☐ Mineral Resources |
| ☐ Noise | ☐ Population / Housing | ☐ Public Services |
| ☐ Recreation | ☐ Transportation | ☐ Tribal Cultural Resources |
| ☐ Utilities / Service Systems | ☐ Wildfire | ☐ Mandatory Findings of Significance |

DETERMINATION: (To be completed by the Lead Agency) On the basis of this initial evaluation:

- ☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Signature: Alisa Goulart, Associate Planner

12/12/25
Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance.

Issues:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
I. AESTHETICS.					
Except as provided in Public Resources Code Section 21099, would the project:					
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☒	☐	☐
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐	☐

Impact Discussion:

- a-b) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres for which the facility is planned.

The proposed project site is in the community of French Camp, CA, on the south side of E. Hurd Road, bordered by S. El Dorado Street on the west side and S. Harlan Road and the Southern Pacific Railroad tracks on the east side. Pursuant to the 2035 General Plan Background Report, the roads adjacent to the project site are not considered a scenic roadway (General Plan Background Report 2035, Pg. 12-14). The site is undeveloped. There are no historic buildings on site nor rock outcroppings. There are several sites in proximity of the proposed project site that are currently utilized for industrial uses. As a condition of approval, the project will be required to provide landscaping in the form of minimum 10-foot-wide planted areas along the parcel where adjacent to roadways. If approved, the proposed use will be consistent with surrounding uses and is anticipated to have a less than significant impact on the scenic vista and scenic resources.

- c) The proposed site is located in the community of French Camp, within the Sphere of Influence of the City of Stockton. The project site is not considered a scenic vista and is surrounded by industrial and commercial uses. If approved, the proposed use would be consistent with surrounding uses and is anticipated to have a less than significant impact on the existing visual character or quality of public views.
- d) The proposed project will be required to adhere to Lighting and Illumination requirements in San Joaquin County Development Title Section 9-403, which requires shielding of outdoor lighting fixtures so as not to be directly visible from a public street or an adjacent lot with limited exceptions. As a result, the proposed project is not anticipated to create any new source of substantial light or glare affecting day or nighttime views in the area and is anticipated to have a less than significant impact on such views.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
II. AGRICULTURE AND FORESTRY RESOURCES.					
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. -- Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?	☐	☐	☐	☒	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒	☐
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐

Impact Discussion:

- a-e) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The project site is currently zoned C-C (Community Commercial) and is not categorized as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. The Important Farmland Maps, prepared by the California Department of Conservation as part of the Farmland Mapping and Monitoring Program, designate the site as Urban and Built-up Land. The project site is not under a Williamson Act contract.

There are no forest resources or areas zoned for forestlands or timberland, as defined by Public Resources Code and Government Code, located on or near the project site. Therefore, the project will have no impact on forest land or timberland production, nor will it result in the loss or conversion of such land or the conversion of agricultural land. The project is anticipated to have a less than significant impact on agriculture and forestry resources.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
III. AIR QUALITY.					
Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐	☐
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐	☐
d) Result in substantial emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐	☐

Impact Discussion:

- a-d) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) has been established by the State in an effort to control and minimize air pollution. SJVAPCD has adopted numerous air quality attainment plans that identify measures needed in San Joaquin Valley to attain the increasingly stringent federal standards. The District's plans include emissions inventories that identify sources of air pollutants, evaluations for feasibility of implementing potential opportunities to reduce emissions, sophisticated computer modeling to estimate future levels of pollution, and a strategy for how air pollution will be further reduced.

Referrals were sent to the San Joaquin Valley Air Pollution Control District on March 14, 2025. The District responded in an email dated March 17, 2025, that the District would not likely respond to the referral.

However, the project will be subject to the SJVAPCD's rule and regulations and it will be necessary for the project to meet existing requirements for emissions and dust control as established by SJVAPCD. As a result, any impacts to air quality will be reduced to less-than-significant.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
IV. BIOLOGICAL RESOURCES:					
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☒	☐	☐
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☒	☐	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☒	☐	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐	☐

Impact Discussion:

- a-b, d-f) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

Referrals were sent to the San Joaquin Council of Governments (SJCOC) for review on November 5, 2024. SJCOC has determined that the project is subject to and may participate in the San Joaquin Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), and the applicant has confirmed participation. As a result, the proposed project is consistent with the SJMSCP, as amended, which will be reflected in the conditions of project approval for this proposal. Pursuant to the *Final EIR/EIS for San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP)*, dated November 15, 2000, and certified by SJCOC on December 7, 2000, implementation of the SJMSCP is expected to reduce impacts to biological resources resulting from the proposed project to a level of less-than-significant.

- c) Pursuant to the U.S. Fish and Wildlife Service's Wetlands Inventory, the project site does not have any mapped wetlands. Therefore, the project's impact on wetlands is expected to be less than significant.

V. CULTURAL RESOURCES.

Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
a) Cause a substantial adverse change in the significance of a historical resource pursuant to § 15064.5?	☐	☐	☒	☐	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	☐	☐	☒	☐	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐	☐

Impact Discussion:

- a-c) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

There are no known historical or archaeological resources on site. Additionally, there are no known human remains located on site. If unique archaeological resources are discovered on the site during project construction, the suite shall be treated in accordance with the provisions of Public Resources Code Section 21083.2. If any historical resources are discovered on site, the developer shall follow the procedures in State CEQA Guidelines Section 15064. In the event human remains are discovered at any point of the proposed project, California state law requires that there shall be no further excavation or disturbance of the site, or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county has determined the manner and cause of death. Recommendations concerning the treatment and disposition of the human remains shall have been made to the person responsible for the excavation (California Health and Safety Code - Section 7050.5). At the time development, if Human burials are found to be of Native American origin, the developer shall follow the procedures pursuant to Title 14, Division 6, Chapter 3, Article 5, Section 15064.5(e) of the California State Code of Regulations.

As a result, the project is anticipated to have a less than significant impact on cultural resources.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
VI. ENERGY.					
Would the project:					
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation?	☐	☐	☒	☐	☐
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☐	☐

Impact Discussion:

- a-b) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The California Energy Code (also titled The Energy Efficiency Standards for Residential and Non-residential Buildings) was created by the California Building Standards Commission in response to a legislative mandate to reduce California's energy consumption. The code's purpose is to advance the state's energy policy, develop renewable energy sources and prepare for energy emergencies. These standards are updated periodically by the California Energy Commission. The code includes energy conservation standards applicable to most buildings throughout California. These requirements will be applicable to the proposed project ensuring that any impact to the environment due to wasteful, inefficient, or unnecessary consumption of energy will be less than significant and preventing any conflict with state or local plans for energy efficiency and renewable energy.

VII. GEOLOGY AND SOILS.

Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☒	☐	☐
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☒	☐	☐
ii) Strong seismic ground shaking?	☐	☐	☒	☐	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐	☐
iv) Landslides?	☐	☐	☒	☐	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐	☐
d) Be located on expansive soil and create direct or indirect risks to life or property?	☐	☐	☒	☐	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☒	☐	☐
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐	☐

Impact Discussion:

This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The Soil Survey of San Joaquin County classifies the soil on the parcel as Honcut sandy loam, 0 to 2 percent slopes.

Honcut sandy loam consists of well drained soils on nearly level soils on alluvial fans. These soils are very deep. Permeability is moderately rapid; available water capacity is moderate. Honcut sandy loam is well suited for irrigated row, field, or orchard and vineyard crops. Honcut soil has a stoniness index rating of 95 and a land capability of "I" for irrigated and "IV-c1" for non-irrigated.

- a) According to the California Department of Conservation's California Geological Survey, the project site is not located within an earthquake fault zone. However, like other areas located in seismically active Northern California, the project area is susceptible to strong ground shaking during an earthquake, and the site would not be affected by ground shaking more than any other area in the region. The project site is relatively flat and is not anticipated to directly or indirectly cause potential substantial adverse effects related to seismic-related ground failure or landslides. Therefore, any related impacts are anticipated to be less than significant.

The Project development would be required to comply with the most recent version of the California Building Code (CBC), which contains universal standards related to seismic load requirements and is codified within the San Joaquin County Ordinance Code under Section 8-1000. In addition, a soils report is required pursuant to CBC § 1803 for foundations and CBC appendix § J104 for grading. All recommendations of the Soils Report will be incorporated into the construction drawings. As a result, impacts associated with seismic ground shaking or possible ground liquefaction are expected to be less than significant.

- b-c) As part of the project design process, a soils report will be required for grading and foundations and all recommendations from a soils report must be incorporated into the construction plans. As a result of these grading recommendations, which are required by the California Building Code (CBC), the project would not be susceptible to the effects of any loss of topsoil, soil erosion, potential lateral spreading, subsidence, or liquefaction. Compliance with the CBC and the engineering recommendations in the site-specific soils report would ensure structural integrity in the event that seismic-related issues are experienced at the project site. Therefore, impacts associated with unstable geologic units are expected to be less than significant.
- d) The Soil Survey of San Joaquin County classifies the project site soil as having low potential for expansive soil. The Building Division of the Community Development Department will review the required soil study and will not issue a Building Permit if it is found the development of the site could lead to the risk of a loss of life because of the expansiveness of the soil. As a result, it can be anticipated that any risk to life would be considered less than significant.
- e) The project site is proposing to construct a septic system and leach line system on the site for wastewater disposal. These improvements require a permit from the San Joaquin County Environmental Health Department and are required to meet the county's standards. As such, the project is expected to have a less than significant impact related to adequately supporting a wastewater system.
- f) The project area has not been determined to contain significant historic or prehistoric archeological artifacts that could be disturbed by potential future site development. The project site also does not contain any known unique geologic features. Therefore, damage to unique paleontological resources, sites or geologic features is expected to be less than significant.

VIII. GREENHOUSE GAS EMISSIONS.

Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
☐	☐	☒	☐	☐

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

☐	☐	☒	☐	☐
--------------------------	--------------------------	-------------------------------------	--------------------------	--------------------------

Impact Discussion:

- a-b) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the industrial/manufacturing, utility, transportation, residential, and agricultural sectors. Therefore, the cumulative global emissions of GHGs contributing to global climate change can be attributed to every nation, region, and city, and virtually every individual on earth. An individual project's GHG emissions are at a micro-scale level relative to global emissions and effects to global climate change; however, an individual project could result in a cumulatively considerable incremental contribution to a significant cumulative macro-scale impact. As such, impacts related to emissions of GHG are inherently considered cumulative impacts.

Implementation of the project would cumulatively contribute to increases of GHG emissions. Estimated GHG emissions attributable to future development would be primarily associated with increases of carbon dioxide (CO₂) and, to a lesser extent, other GHG pollutants, such as methane (CH₄) and nitrous oxide (N₂O) associated with area sources, mobile sources or vehicles, utilities (electricity and natural gas), water usage, wastewater generation, and the generation of solid waste. The primary source of GHG emissions for the project would be mobile source emissions. The common unit of measurement for GHG is expressed in terms of annual metric tons of CO₂ equivalents (MTCO₂e/yr).

As noted previously, the project will be subject to the rules and regulations of the SJVAPCD. The SJVAPCD has adopted the *Guidance for Valley Land- use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA* and the *District Policy – Addressing GHG Emission Impacts for Stationary Source Projects Under CEQA When Serving as the Lead Agency*.¹ The guidance and policy rely on the use of performance-based standards, otherwise known as Best Performance Standards (BPS) to assess significance of project specific greenhouse gas emissions on global climate change during the environmental review process, as required by CEQA. To be determined to have a less-than-significant individual and cumulative impact with regard to GHG emissions, projects must include BPS sufficient to reduce GHG emissions by 29 percent when compared to Business As Usual (BAU) GHG emissions. Per the SJVAPCD, BAU is defined as projected emissions for the 2002-2004 baseline period. Projects which do not achieve a 29 percent reduction from BAU levels with BPS alone are required to quantify additional project-specific reductions demonstrating a combined reduction of 29 percent. Potential mitigation measures may include, but not limited to: on-site renewable energy (e.g. solar photovoltaic systems), electric vehicle charging stations, the use of alternative-fueled vehicles, exceeding Title 24 energy efficiency standards, the installation of energy-efficient lighting and control systems, the installation of energy-efficient mechanical systems, the installation of drought-tolerant landscaping, efficient irrigation systems, and the use of low-flow plumbing fixtures.

It should be noted that neither the SJVAPCD nor the County provide project-level thresholds for construction-related GHG emissions. Construction GHG emissions are a one-time release and are, therefore, not typically expected to generate a significant contribution to global climate change.

¹ San Joaquin Valley Air Pollution Control District. *Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA*. December 17, 2009. San Joaquin Valley Air Pollution Control District. *District Policy Addressing GHG Emission Impacts for Stationary Source Projects Under CEQA When Serving as the Lead Agency*. December 17, 2009

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
<u>IX. HAZARDS AND HAZARDOUS MATERIALS.</u>					
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☒	☐	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☒	☐	☐
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐	☐
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☒	☐	☐

Impact Discussion:

- a-b) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The project is not expected to transport, use, or dispose hazardous material, nor release hazardous material into the environment. Before any hazardous materials/waste can be stored or used onsite, the owner/operator must report the use or storage of these hazardous materials to the California Environmental Reporting System (CERS) and comply with the laws and regulations related to the CUPA (Certified Unified Program Agency) program administered by the San Joaquin County Environmental Health Department. In this way, impacts related to the use, transport, or disposal of hazardous materials are expected to be less than significant.

- c) The proposed project is not located within one quarter mile of an existing or proposed school. French Camp Elementary, the nearest school, is located approximately 0.58 miles from the project site. The school is not situated along any major transportation routes anticipated to be used by vehicles associated with the proposed project. Therefore, no impact to existing schools is anticipated.
- d) The project site is not listed as a hazardous materials site on the California Department of Toxic Substances Control EnviroStor database map, compiled pursuant to Government Code 65962.5 and as noted above, does not include the use or storage of hazardous materials on-site. Therefore, the project is anticipated to have no impact on creating a

significant hazard to the public or the environment.

- e) The project site is located within the Traffic Pattern Zone (TPZ) of the Stockton Metropolitan Airport and is approximately 2.0 miles southwest of the airport runway. Pursuant to the San Joaquin County Airport Land Use Compatibility Plan (Amended 2018), the project site is located outside of the current noise exposure contour and the future noise exposure contour. Therefore, due to the project site's distance from the airport noise contours, the project's risk of exposing people residing or working in the project area to safety hazards or excessive noise is less than significant.

- f) The project site is located on S. El Dorado Street, and has a local classification of Minor Arterial, defined as a street that provides direct access between various sectors of the city and residential area.

The project site is located approximately 0.25 miles south of the E. Matthews Road Interstate 5 Interchange and 0.15 miles north of the S. El Dorado Street Interstate 5 Interchange. The project site is located on a roadway that will be used for evacuation, but all work and work equipment as well as operations, will be on site with no interference with traffic. Therefore, the project's anticipated impact on emergency response or evacuation plans is expected to be less than significant.

- g) The project is located in the community of French Camp and is not identified as a Community at Risk from Wildfire by Cal Fire's "Fire Risk Assessment Program". Communities at Risk from Wildfire are those places within 1.5 miles of areas of High or Very High wildfire threat as determined from CDF-FRAP fuels and hazard data. Therefore, the impact of wildfires on the project site, including people or structures, is expected to be less than significant.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
<u>X. HYDROLOGY AND WATER QUALITY.</u>					
Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☒	☐	☐
i) result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐	☐
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐	☐
iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☒	☐	☐
iv) impede or redirect flood flows?	☐	☐	☒	☐	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐	☐

Impact Discussion:

- a-b,e) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The project would not result in substantial changes to water quality or groundwater management, and therefore would not conflict with or obstruct implementation of water quality control plan or sustainable groundwater management plan. Development of the site as it relates to water quality would be subject to the rules and requirements of the Environmental Health Department, and subject to the rules and requirements of the Department of Public Works related to storm drainage and groundwater. The developer will be responsible for paying Water Impact Mitigation Fees which finance San Joaquin County's (County) share of the construction cost for the "New Melones Water Conveyance Project," which is intended to mitigate the impact of ground and surface water depletion resulting from new development within the fee area. Therefore, the project is anticipated to have a less than significant impact on impacts to groundwater supplies and impacts to the sustainability of groundwater management of the basin.

- c) The project site is located approximately 0.75 miles southwest of French Camp Slough. Construction of the proposed project would result in grading and soil-disturbing activities and the installation of new impervious surfaces. A grading permit will be required which requires plans and grading calculations, including a statement of the estimated quantities of excavation and fill, prepared by a Registered Design Professional. The grading plan must show the existing grade

and finished grade in contour intervals of sufficient clarity to indicate the nature and extent of the work and show in detail that it complies with the requirements of the California Building Code (CBC). The plans must also show the existing grade on adjoining properties in sufficient detail to identify how grade changes will conform to the requirements of the CBC. A drainage plan must also be submitted for review and approval, prior to release of a building permit. In this way, any impacts to the existing drainage pattern of the site will be less than significant. Additionally, the proposed project includes an onsite surface water runoff retention pond which will be required to adhere to the development standards of the Public Works Department. As a result, any impacts are anticipated to be less than significant.

- d) The flood zone information contained on the San Joaquin County Flood Information viewer is provided using the Digital Flood Insurance Rate Map data received from the US Department of Homeland Security, Federal Emergency Management Agency (FEMA). Pursuant to this information, the area containing the project site is not in a Special Flood Hazard Zone. Development of this project will not require compliance with Development Title Section 9-1605 regarding flood hazards. The project site is also not located in a tsunami nor a seiche zone. Therefore, the possibility of pollutants being released from project inundation is expected to be less than significant.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
<u>XI. LAND USE AND PLANNING.</u>					
Would the project:					

- | | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|
| a) Physically divide an established community? | ☐ | ☐ | ☒ | ☐ | ☐ |
| b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect? | ☐ | ☐ | ☒ | ☐ | ☐ |

Impact Discussion:

- a) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The project does not include construction of any feature that would impair mobility within an existing community, nor does it include removal of a means of access between a community and outlying area. The project site is not used as a connection between established communities. Instead, connectivity with the area surrounding the project is facilitated via local roadways. Therefore, the project will not result in dividing an established community.

- b) The project is to develop the parcel with a restaurant facility for take-out service only. This is a permitted use in the Community Commercial (C-C) zone with a conditionally-approved land use permit therefore, the proposed use will be consistent with all land use policies and regulations of the County Development Code and 2035 General Plan, therefore, the project's impact on the environment due to land use conflict is expected to be less than significant.

XII. MINERAL RESOURCES.

Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☒	☐	☐
b) Result in the loss of availability of a locally- important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☒	☐	☐

Impact Discussion:

- a-b) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The proposed project will not result in the loss of availability of a known mineral resource of a resource recovery site because the site does not contain minerals of significance or known mineral resources. San Joaquin County applies a mineral resource zone (MRZ) designation to land that meets the significant mineral deposits definition by the State Division of Mines and Geology. The project site is designated MRZ-1 which is applied to areas where adequate geologic information indicates that no significant mineral deposits are present, or where it is judged that little likelihood exists for their presence. Therefore, the proposed project will have a less than significant impact on the availability of mineral resources or mineral resource recovery sites within San Joaquin County.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
XIII. NOISE.					
Would the project result in:					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐	☐
b) Generation of excessive ground borne vibration or ground borne noise levels?	☐	☐	☒	☐	☐
c) For a project within the vicinity of a private airstrip or an airport land use plan, or where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐

Impact Discussion:

- a-b) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The Noise Contour Map depicts the project site in the 65dB noise contour of Interstate 5, which extends from Interstate 5 east to the Union Pacific Railroad tracks. Noise and vibration resulting from construction of the project may exceed the existing noise level, however, noises from construction activities are exempt from noise standards provided the construction occurs no earlier than 6:00 A.M. and no later than 9:00 P.M. Operation of the proposed project would be subject to the Development Title standards found in Section 9-404.040. Therefore, noise impacts from the proposed project are expected to be less than significant.

- c) The project site is located within the Traffic Pattern Zone (TPZ) of the Stockton Metropolitan Airport and is approximately 2.0 miles southwest of the airport runway. Pursuant to the San Joaquin County Airport Land Use Compatibility Plan (Amended 2018), the project site is located outside of the current noise exposure contour and the future noise exposure contour. Therefore, due to the project site's distance from the airport noise contours, the project's risk of exposing people residing or working in the project area to safety hazards or excessive noise is less than significant.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
<u>XIV. POPULATION AND HOUSING.</u>					
Would the project:					
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☒	☐	☐

Impact Discussion:

- a-b) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The project will not induce substantial population growth in the area either directly or indirectly because the project is not anticipated to result in a significant increase in the number of jobs available. The proposed project would not displace substantial numbers of people or existing housing, necessitating the construction of replacement housing elsewhere because no residences will be removed. Therefore, the project's impact on population and housing is expected to be less than significant.

XV. PUBLIC SERVICES.

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
Fire protection?	☐	☐	☒	☐	☐
Police protection?	☐	☐	☒	☐	☐
Schools?	☐	☐	☒	☐	☐
Parks?	☐	☐	☒	☐	☐
Other public facilities?	☐	☐	☒	☐	☐

Impact Discussion:

- a) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The project site is within the French Camp - McKinley Fire District and is served by the San Joaquin County Sheriff's Office for police protection. A referral requesting comments was sent to both agencies and no response was received. The proposed project is not anticipated to result in substantial adverse physical impacts to existing service ratios, response times or other performance objectives for fire protection or police protection. The site is also within the Manteca Unified School District but, because there is no housing involved in this project, nor does the proposed use require any additional park area, it is expected that the project will not impact schools and parks. Therefore, the proposed project is anticipated to have a less than significant impact on public services.

XVI. RECREATION.

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Potentially
Significant
Impact

Less Than
Significant with
Mitigation
Incorporated

Less Than
Significant
Impact

No
Impact

Analyzed
In The
Prior EIR

☐
☐
☐
☒
☐

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

☐
☐
☐
☒
☐

Impact Discussion:

- a-b) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The proposed project will not substantially increase the use of existing neighborhood and regional parks or other recreational facilities because no increase in housing or people is associated with this application. Additionally, the project does not include proposed recreation facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment. As a result, no impacts to recreation facilities are anticipated.

XVII. TRANSPORTATION.

Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
a) Conflict with a program plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle, and pedestrian facilities?	☐	☐	☒	☐	☐
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	☐	☐	☒	☐	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐	☐

Impact Discussion:

- a) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The project site is located in the community of French Camp, CA, bordered by S. El Dorado Street on the west side and S. Harlan Road on the east side. S. El Dorado Street in French Camp is classified as a Minor Arterial roadway and merges with Interstate 5 approximately 0.7 miles south of the project site. S. Harlan Road in French Camp is classified as a Local roadway.

The project is not expected to generate more than 50 vehicles an hour therefore a traffic study was not required. A project referral was sent to the Department of Public Works on November 5, 2024. Public Works responded on March 28, 2025, with the standard requirements for encroachment permits and driveway improvement standards. The developer will be responsible for payment of Traffic Mitigation Impact Fees as well as Regional Traffic Impact Fees, which go towards funding transportation improvements and transportation facilities to accommodate new development.

The project will not alter the existing transportation facilities; as such, its installation would not lead to conflicts with transportation plans and ordinances related to these roads. There are no existing or planned pedestrian facilities, bicycle facilities, or transit facilities in the project vicinity therefore, the project's impact on pedestrian, bicycle or transit facilities is expected to be less-than-significant.

- b) The project would have a less-than-significant impact on Vehicle Miles Traveled (VMT) based on the San Joaquin County Transportation Analysis Guidelines of September 2020, which state that locally serving retail projects and retail projects that are less than 50,000 square feet are presumed to have a less-than-significant VMT impact. The project includes an Administrative Use Permit for a take-out only restaurant kitchen consisting of a 4,128 square foot structure. The project will serve the community of French Camp as well as the daytime population consisting of workers in the industrial and commercial surrounding area. Therefore, the project is not expected to conflict or be inconsistent with CEQA Guidelines section 15064.3(b).
- c) The proposed site plan provides vehicles with adequate connectivity between adjacent streets and the project area. There are no curves along either side of the driveway so adequate sight distance can be maintained. The proposed project would not substantially increase hazards on-site due to a design feature, nor would the project inhibit emergency access to the site or surrounding uses. The project will be subject to the Department of Public Works' review process for the adequacy of circulation patterns in preventing the creation or increase of on-site hazards. There is space enough on site for vehicle queuing without creating interference with traffic on S. El Dorado Street.

The use is a drive-thru restaurant with no on-site consumption of goods. The project location is zoned Community Commercial which permits this use. Therefore, the zoning and use will be compatible with the area.

-
- d) All driveways and drive aisles on-site would be a minimum of 15 feet wide for one-way traffic and 25 feet wide for two-way traffic to comply with the Development Title requirement for vehicle access and travel. A driveway and circulation route that meets the San Joaquin County Fire Chiefs' Association guidelines for providing fire apparatus access as required by the California Fire Code (CFC) is required. Therefore, site access will provide adequate space for fire trucks and emergency vehicles to enter and turn around, and the project's impact on emergency access is expected to be less than significant.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
--	--------------------------------------	---	------------------------------------	--------------	---------------------------------

XVIII. TRIBAL CULTURAL RESOURCES.

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- | | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|
| i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or | ☐ | ☐ | ☒ | ☐ | ☐ |
| ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. | ☐ | ☐ | ☒ | ☐ | ☐ |

Impact Discussion:

- a) This project consists of an Administrative Use Permit for a drive-thru only restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

The project site is undeveloped; therefore, no buildings are listed on the State Office of Historic Preservation California Register or the National Register of Historic Places. Therefore, the project will not result in a substantial adverse change in the significance of a historical resource as defined by CEQA.

On November 5, 2024, referrals were sent to United Auburn Indian Community, California Valley Miwok Tribe, North Valley Yokuts Tribe, and Buena Vista Rancheria for review. No responses were received. In the event human remains are discovered at any point of the project, California state law requires that there shall be no further excavation or disturbance of the site, or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county has determined the manner and cause of death. Recommendations concerning the treatment and disposition of the human remains shall have been made to the person responsible for the excavation (California Health and Safety Code - Section 7050.5). At the time development, if Human burials are found to be of Native American origin, the developer shall follow the procedures pursuant to Title 14, Division 6, Chapter 3, Article 5, Section 15064.5(e) of the California State Code of Regulations.

As a result, the project is anticipated to have a less than significant impact on cultural resources.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
<u>XIX. UTILITIES AND SERVICE SYSTEMS.</u>					
Would the project:					
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment, or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐	☐
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐	☐
c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐	☐
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐	☐
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐	☐

Impact Discussion:

- a-e) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

There are no public services available in the area for water, sewer, or storm water drainage. The application is proposing an on-site septic system for wastewater, an on-site well for water, and an on-site retention basin for storm water drainage. The proposed well and septic system must be maintained under a permit by the San Joaquin County Environmental Health Department. Additionally, as an ordinance requirement, the property is required to keep all storm drainage on site and follow all San Joaquin County Public Works rules and requirements pertaining to storm drainage. A December 2025 revision to the Development Title removed the requirement for parcels under 2 acres to be able to connect to a public storm drain system making it possible for this project development. As a result, impacts to utility and service systems are expected to be less than significant.

- d-e) The project site is currently within the boundaries of Republic Services, one of five solid waste collectors providing service under franchise to San Joaquin County. The San Joaquin County Code requires that solid waste be collected from residential generators a minimum of once a week, and at least twice a week for commercial and industrial generators (San Joaquin County 2016a). Solid waste is transported and disposed of primarily at three active sanitary landfills in San Joaquin County. The North County Landfill on East Harney Lane has available capacity to 2048, and the Foothill Sanitary Landfill on North Waverly Road has available capacity to 2082 (CalRecycle 2021). The Forward Landfill on Austin Road near Stockton was to have reached its capacity in 2020; however, the County Board of Supervisors recently approved an expansion of Forward Landfill that would extend its life to 2036 (Crunden 2020). California Senate Bill 1383 (SB 1383) requires jurisdictions in California to recycle organic waste, including paper, cardboard, yard materials, food scraps, and food-soiled paper with a goal of diverting 75% of organics from reaching the landfill by 2025. San Joaquin County passed SB 1383 Organic Waste Diversion Ordinance in February of 2022 mandating that business must comply with SB 1383 mandates by 1) subscribing to a SB 1383 compliant waste collection system through a licensed collector; 2) qualifying for a waiver; or, 3) utilizing acceptable alternative compliance methods. In this way, the project is expected to be compliant with federal, state, and local management and reduction statutes and regulations related to solid waste.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
<u>XX. WILDFIRE.</u>					
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒	☐
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒	☐
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒	☐

Impact Discussion:

- a-d) This project consists of an Administrative Use Permit for a restaurant facility, a General Plan Map Amendment to change the designation to Community Commercial, and a Merger of Parcels to merge the 4 parcels totaling 0.81 acres on which the facility is planned.

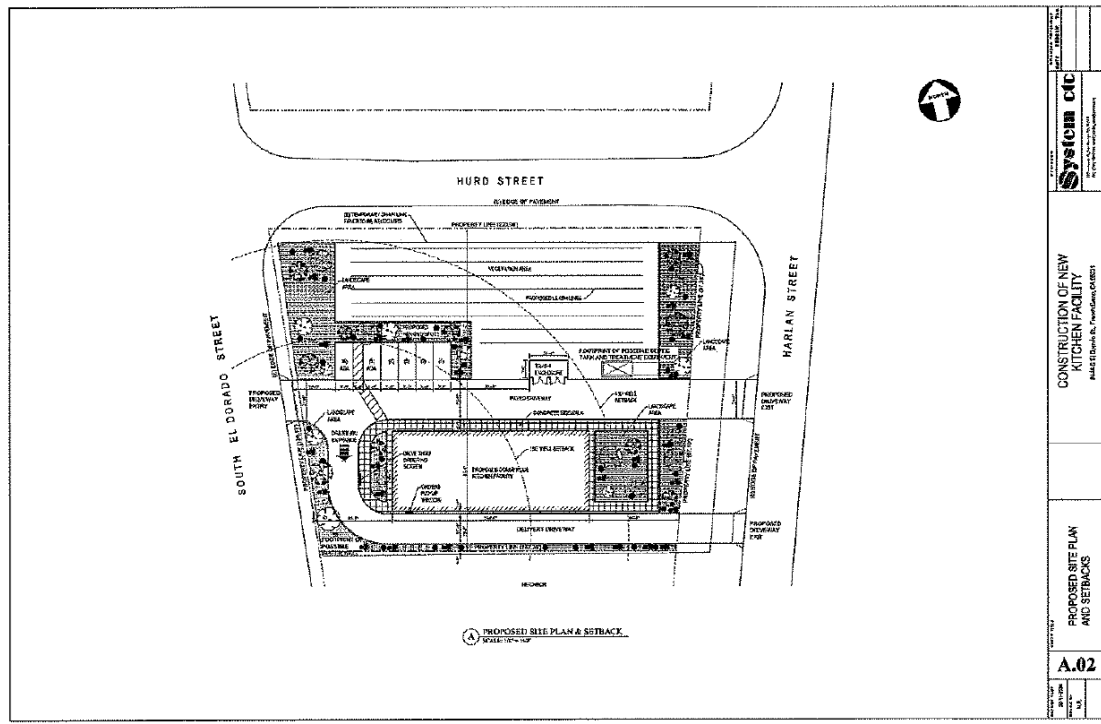
The project location is in an area south of the City of Stockton, in unincorporated French Camp and is not identified or near a Community at Risk from Wildfire by Cal Fire's "Fire Risk Assessment Program". Communities at Risk from Wildfire are those places within 1.5 miles of areas of High or Very High wildfire threat as determined from CDF-FRAP fuels and hazard data. Therefore, no impact related to wildfires are anticipated.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	Analyzed In The Prior EIR
XXI. MANDATORY FINDINGS OF SIGNIFICANCE					
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☒	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	☐

Impact Discussion:

- a-c) Review of this project has not indicated any features which might significantly impact the environmental quality of the site and/or surrounding area. Mitigation measures have been identified in areas where a potentially significant impact has been identified and these measures, included as conditions of approval, will reduce these impacts to a less than significant level.

ATTACHMENT: (MAP[S] OR PROJECT SITE PLAN[S])





SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment D **Mitigated Monitoring** **and Reporting Program**

This page intentionally left blank.

MITIGATION MONITORING AND REPORTING PLAN

Date: 17-Mar-25
Project # PA-2400217, -219, -220

Impact	Mitigation Measure/Condition	Type of Review		Agency for Monitoring and Reporting Compliance	Action Indicating Compliance or Review	Verification of Compliance or Annual Review of Conditions		
		Monitoring	Reporting			By	Date	Remarks
IV. Biological Resources	Participation in the SJMSCP		X	San Joaquin Council of Governments	Certificate of Payment and Signed ITMM			

This page intentionally left blank.



SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment E **Findings for General** **Plan Map Amendment**

This page intentionally left blank.

FINDINGS FOR GENERAL PLAN MAP AMENDMENT

PA-2400220

ALAWDI ZAKRYA/ MOHAMED S. ELSHAFEI

1. The proposed amendment will contribute to the public health, safety, and general welfare or will be of benefit to the public.

Amending the General Plan Map Amendment and underlying project will allow for flexibility to adapt to changing community needs and priorities. The proposed project will assist in the community's growth and development by making better use of underutilized land, contributing to a more efficient and functional urban layout.

2. The proposed amendment is consistent with the General Plan goals, unless the goals themselves are proposed to be amended.

The Community Commercial (C-C) zoning designation is intended to accommodate community scale shopping centers, and a broad range of retail and service uses that meet the commercial needs of urban communities and regional markets. The zoning ordinance specifically identifies the C-C zone as an implementing zoning districts for the Community Commercial (C/C) General Plan land use designation. As such, the proposed C/C designation is consistent with and directly supports the purpose and intent of the existing zoning designation.

The proposed designation is also consistent with applicable General Plan policies governing commercial development (Land Use Goals LU-5.1 to LU-5.10). The General Plan requires commercial areas to be appropriately located, sized, and designed to serve their intended market areas and is intended to accommodate commercial uses serving community and regional markets, consistence with the development objects of the C-C zone. Further development with the designation would be subject to applicable Development Title standards regulating development intensity, including lot coverage requirements.

3. The proposed amendment retains the internal consistency of the General Plan and is consistent with other adopted plans, unless a concurrent amendment to those plans is also proposed and will result in consistency.

This finding can be made as the current General Plan designation of I/G (General Industrial) is not consistent with the current zoning designation of C-C (Community Commercial). The project site was previously designated as Community Commercial (C/C) in the 2010 General Plan. However, this was updated to General Industrial (I/G) when the Board of Supervisors approved a landowner request as part of the comprehensive update to the 2035 General Plan, adopted in 2016. The change in General Plan designation created an inconsistency with the existing zoning classification of C-C (Community Commercial) that was to be addressed when the property owner applied for a specific project. The project site is now under new ownership, and the current landowners are proposing an Administrative Use Permit for commercial development as a commercial kitchen facility. As a result, since the property is no longer proposed for industrial development, the project includes amending the General Plan Map to redesignate the parcel as C/C (Community Commercial) again for consistency with the zoning and proposed project. By amending the General Plan designation, the project area will be in conformance with the General Plan.

4. The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

This finding can be made because the proposed General Plan map amendment was reviewed with the accompanying Minor Subdivision application in compliance with the requirements of CEQA. In accordance with CEQA, an Initial Study was generated and posted for 30 days. The resulting Mitigated Negative Declaration and Initial Study found that any potentially significant impacts could be mitigated to a level of less than significant.



SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment F **Findings for** **Administrative Use Permit**

This page intentionally left blank.

FINDINGS FOR ADMINISTRATIVE USE PERMIT

PA-2400217

ALAWDI ZAKRYA/ MOHAMED S. ELSHAFEI

1. The proposed use is consistent with the goals, policies, standards, and maps of the General Plan, any applicable Master Plan, Special Purpose Plan, Specific Plan, and Planned Development zone; and any other applicable plan adopted by the County.
 - **This finding can be made because the proposed commercial kitchen (Use Type: Eating and Drinking Establishment – Restaurant, Limited Service) is consistent with the proposed General Plan designation of C/C (Community Commercial) and the existing zoning designation of C-C (Community Commercial). The proposed C/C designation allows for a full range of retail and service uses serving urban areas and regional markets as well as limited office uses. The Eating and Drinking Establishment – Restaurant, Limited Service is a compatible use type that may be conditionally permitted in the C-C zone with an approved Administrative Use Permit. Therefore, the project is consistent with the General Plan and will meet Development Title regulations for the approved use with the recommended Conditions of Approval. There are no Master Plans, Specific Plans, Special Purpose Plans, or other applicable plans adopted by San Joaquin County related to the subject property.**
2. Adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, and the proposed improvements are properly related to existing and proposed roadways.
 - **This finding can be made because adequate utilities, access roads, sanitation, drainage, and other necessary facilities are proposed or have been provided and the proposed improvements are properly related to existing and proposed streets and highways. The project site will have one way access with an entrance driveway from South El Dorado Street and an exit driveway onto South Harlan Road. The proposed parking lots, including internal circulation and loading areas, must be surfaced with asphalt concrete in conformance with San Joaquin County Development Title Section 9-406.060(i). The project site will be served by an on-site well for water and an on-site septic system for wastewater treatment that will be reviewed and permitted by the Environmental Health Department. All stormwater drainage is to a proposed to be contained on-site. Proposed stormwater drainage plans will be reviewed and approved by the Department of Public Works.**
3. The site is physically suitable for the type of development and for the intensity of development.
 - **This finding can be made because the project site is comprised of four parcels (APNs: 193-170-17, - 18, -19, and -20) totaling 0.81 acres, which are collectively of adequate size and shape to accommodate the proposed use along with all yard requirements, building coverage, setbacks, parking areas and other requirements of the Development Title. As recommended Condition of Approval No. 1.d., the project parcels will be merged so that all improvements are contained on a single, legal lot. Additionally, as a recommended Conditions of Approval, the proposed parking areas will be surfaced with asphalt concrete in conformance with Development Title Section 9-406.060(i) and other improvements will comply with applicable Development Title regulations designed to ensure that the site improvements are adequate for the type and intensity of the development.**
4. The location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.
 - **This finding can be made because the project site is currently surrounded by legal non-conforming residences and food truck operations, and the proposed project is for a commercial kitchen facility that will operate six days a week from 8 am to 12 pm and from 1**

pm to 5pm. The site has been conditioned to meet San Joaquin County Development Title regulations that protect public health, safety, and welfare and ensure that development of the project will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood. All project development will meet required setbacks to prevent intrusion onto adjacent properties, including maintaining all stormwater drainage on-site. Although the surrounding area is primarily zoned and designated by the General Plan for commercial and industrial uses, there are several non-conforming residences nearby. The nearest residence is located approximately 175 feet to the west of the project site on a parcel zoned C-G (General Commercial). All regular activities for the commercial kitchen will take place indoors and are not expected to exceed noise levels contained in the San Joaquin County noise ordinance. The proposed project is subject to the provisions of the San Joaquin County Development Title Section 9-404.030. To prevent noise levels from exceeding the standards specified in Development Title Table 9-404.040, which could potentially impact nearby residences, the proposed project is required to comply with noise level limitations of 65 dB Ldn (decibels of the day-night average sound level). With these limitations, noise impacts are expected to remain consistent with similar assembly uses and within acceptable levels. Additionally, recommended Conditions of Approval include construction of a 10-foot-wide landscape buffer along the property line abutting the residential use to limit potential impacts. As a result, the proposed project is a use that is compatible with the zone and surrounding area and is not anticipated to adversely affect abutting properties or the neighborhood.

5. The proposed use will not create any nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding ambient conditions.
 - This finding can be made because there are no potentially significant impacts from odor, dust, gas, noise, vibration, smoke, heat or glare that will require mitigation. The project involves minor alterations in the condition of land, water, and vegetation. The development will be subject to the rules and regulations of the San Joaquin County Development Title, the San Joaquin Valley Air Pollution Control District, and the State Water Quality Control Board and is required to obtain permits for construction and operation of the development. As noted above, the project will also be subject to the noise standards contained in the Development Title. Therefore, the project is not anticipated to create a nuisance.
6. The site of the proposed use is adequately served by highways, streets, water, sewer, storm drainage, and other public facilities and services.
 - This finding can be made because the project site is located with frontage along several public roads and is approximately 0.27 miles from the North Interstate 5 on-ramp, which provides nearby highway access to the project site. The Department of Public Works will review and approve encroachment permits for the proposed project driveways from South El Dorado Street and onto South Harlan Road for access to public roadways. Adequate utilities, sanitation, and drainage will be provided. The proposed project will obtain its water supply from an on-site well and will utilize an on-site septic system for wastewater treatment. Storm water will be contained on-site. The well and septic system will be subject to review and permitting by the Environmental Health Department. The proposed stormwater drainage system will be reviewed and approved by the Department of Public Works.
7. The proposed use complies with all applicable provisions of this Title.
 - This finding can be made because the subject property is zoned C-C (Community Commercial) and the proposed use, Eating and Drinking Establishment – Restaurant, Limited Service, is an allowed use with a conditionally approved Administrative Use Permit. The recommended Conditions of Approval will ensure that the project complies with all applicable provisions of the Development Title.



SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment G **Conditions of Approval**

This page intentionally left blank.

CONDITIONS OF APPROVAL

PA-2400217

ALAWDI ZAKRYA/ MOHAMED S. ELSHAFEI

Administrative Use Permit No. PA-2400217 was approved by the Planning Commission on ... 2026. The effective date of approval is ... 2026. This approval will expire on, ...2029, which is thirty-six (36) months from the effective date of approval, unless (1) all Conditions of Approval have been complied with, (2) all necessary building permits have been issued and remain in force, and (3) all necessary permits from other agencies have been issued and remain in force.

Unless otherwise specified, all Conditions of Approval and ordinance requirements shall be fulfilled prior to the establishment of the use and the issuance of any building permits. Those Conditions followed by a Section Number have been identified as ordinance requirements pertinent to this application. Ordinance requirements cannot be modified, and other ordinance requirements may apply.

1. COMMUNITY DEVELOPMENT DEPARTMENT (Contact: [209] 468-3121)

- a. **BUILDING PERMIT:** Submit an "APPLICATION-COMMERCIAL BUILDING/GRADING PERMIT". The Site Plan required as a part of the building/grading permit must be prepared by a registered civil engineer or licensed architect. This Plan must show drainage, driveway access details including gates, on-site parking, landscaping, signs, existing and proposed utility services, and grading (refer to the "SITE PLAN CHECK LIST" for details). Foundation and soils investigation shall be conducted in conformance with Chapter 18 of the California Building Code at the time of permit application. A fee is required for the Site Plan review. (Development Title Section 9-408.140)
- b. **APPROVED USE:** This approval is for a 4,121 square foot commercial kitchen facility selling prepared food through a drive-through for take-out only, as shown on the site plan dated February 11, 2024. (Use Type: Eating and Drinking Establishment – Restaurant, Limited Service)
- c. **CAPITAL FACILITY FEE:** This project may be subject to the Capital Facility Fee. If the Capital Facility Fee is applicable, the County shall collect the fees before the issuance of any building permits. (Development Title Section 9-610.070)
- d. **MERGER OF PARCELS:** Prior to issuance of Building Permits, the applicant must submit a Merger application and the "Notice of Merger" for the application shall be recorded.
- e. **SURFACING:** Surfacing shall comply with the following:
 1. All permanent parking lots shall be surfaced and permanently maintained with asphalt concrete or Portland cement concrete. Bumper guards and/or wheel stops shall be provided when necessary to protect adjacent structures or properties. (Development Title Section 9-406.060[i])
- f. **VEHICLE PARKING:** Off-street parking shall be provided and comply with the following:
 1. A minimum of twelve permanent off-street vehicle parking spaces shall be provided. (Development Title Section 9-406.040)
 2. Each vehicle parking stall shall be an unobstructed rectangle, minimum 9 feet wide and 20 feet long. (Development Title Section 9-406.060)
- g. **SETBACKS:** The following setback requirements apply and shall be shown on the Site Plan:
 1. A minimum 20-foot-wide setback shall be maintained along all street side lot lines. (Development Title Table 9-201.030)
- h. **ACCESS AND CIRCULATION:** The following requirements apply and shall be shown on the Site Plan:

1. Access driveways shall have a width of no less than twenty-five (25) feet for two-way aisles and sixteen (16) feet for one-way aisles, except that in no case shall driveways designated as fire department access be less than twenty (20) feet wide. (Development Title Section 9-406.060[n][1])
- i. **LIGHTING:** Lighting shall be provided and comply with the following:
 1. All off-street parking areas where the parking area is used at night shall be provided with exterior lighting. (Development Title Section 9-406.060[m])
 2. All lighting shall be designed to confine direct rays to the premises. No spillover beyond the property lines shall be permitted, except onto public roads, provided, however, that such light shall not cause a hazard to motorists. (Development Title Section 9-406.060[m][3])
 3. All lighting shall be on a time clock or photo-sensor system so as to be turned off during daylight hours and during any hours when the parking area is not in use. This requirement does not apply to security lighting. (Development Title Section 9-406.060[m][2])
- j. **LANDSCAPING:** Landscaping shall be provided and comply with the following:
 1. This project will be required to comply with the Model Water Efficient Landscape Ordinance Requirement per California Code of Regulations, Title 23, Division 2, Chapter 2.7.
 2. A 10-foot-wide landscaped strip shall be installed and maintained between the project site and the adjacent residential use along South El Dorado Street. (Development Title Section 9-402.030[b][1])
 3. A 10-foot-wide landscaped strip shall be installed and maintained between the parking areas and adjacent to East Brandt Road. (Development Title Section 9-402.030[c][2])
- k. **SIGNS:** Sign details shall be consistent with Chapter 9-408 of the Development Title and be included on the Site Plan. All portions of any sign shall be set back a minimum of 5 feet from existing and future right-of-way lines and shall not block pedestrian or vehicle rights-of-way or obstruct drivers' visibility. (Development Title Section 9-408.070[p])
- l. **MITIGATION MONITORING AND REPORTING PROGRAM:** The project shall comply with all required mitigations included in the MMRP dated March 17, 2025.
1. DEPARTMENT OF PUBLIC WORKS (Contact: [209] 468-3000. See memo dated February 13, 2026)
 - a. An encroachment permit shall be required for all work within road right-of-way. (Note: Driveway encroachment permits are for flatwork only – all vertical features, including but not limited to fences, walls, private light standards, rocks, landscaping and cobbles are not allowed in the right-of-way.) (Development Title Sections 9-607.020 and 9-607.040)
 - b. The driveway approaches shall be improved in accordance with the requirements of San Joaquin County Improvement Standards Drawing No. 14 prior to issuance of the occupancy permit. (Development Title Section 9-607.040)
 - c. The roadway improvements for Hurd Road shall be constructed in conformance with the standards for one-half of a sixty (60) foot wide right-of-way Rural Street (this includes realignment of traffic striping and marking as necessary). The improvements shall be in conformance with the current Improvement Standards of the County of San Joaquin. Improvement plans, specifications and engineer's estimate prepared by a registered civil engineer shall be submitted for review and are subject to plan check, field inspection fees and must be approved by the County of San Joaquin Department of Public Works prior to issuance of the occupancy permit. (Development Title Section 9-505, Section 9-600, Section 9-608.010[c] and R-92-814)
 - d. The Traffic Impact Mitigation Fee shall be required for this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time

of payment. The fee shall be automatically adjusted July 1 of each year by the Engineering Construction Cost Index as published by the Engineering News Record. (Resolutions R-00-433)

- e. The Regional Transportation Impact Fee shall be required for this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. (Resolution R-06-38)
 - f. The Water Supply Facilities Impact Mitigation Fee shall be required for this development. The fee is due and payable prior to issuance of the building permit. The fee will be based on the current schedule at the time of payment. (Development Title Section 9-803.020 and Resolutions R-91-327, R-94-185 and R-97-5)
 - g. The Flood Protection Development Impact Fee shall be required for this application. The fee is due and payable prior to issuance of the building permit. The fee will be based on the current schedule at the time of payment. (Resolutions R-22-135)
 - h. The developer shall provide drainage facilities in accordance with the San Joaquin County Development Standards. Retention basins shall be fenced with six (6) foot high chain link fence or equal when the maximum design depth is 18 inches or more. Required retention basin capacity shall be calculated and submitted along with a drainage plan for review and approval, prior to release of building permit. (Development Title Section 9-606)
 - i. A copy of the Final Site Plan shall be submitted prior to release of building permit.
 - j. This project is subject to the NPDES Region-Wide Permit requirements and shall comply with the following conditions. Prior to release of the building permit, plans and calculations shall be submitted and approved by the Public Works Department – Water Resources Division (209-468-9360):
 - 1. Treatment: A registered professional engineer shall design the site to treat the 85th percentile storm as defined in the County's 2023 Storm Water Quality Control Criteria Plan (SWQCCP).
 - 2. Hydromodification: A registered professional engineer shall design the site to comply with the volume reduction requirement outlined in the County's 2023 SWQCCP
 - 3. Trash: A registered professional engineer shall design the site to comply with the trash control requirement outlined in the County's 2023 SWQCCP.
 - k. Prior to release of the building permit, the owner shall enter into an agreement with San Joaquin County for post-construction maintenance of stormwater quality facilities.
 - l. Prior to release of the building permit the applicant shall submit a Storm Water Quality Control Plan (SWQCP) to Public Works that complies with all requirements of the 2023 SWQCCP
 - m. Prior to release of the building permit the applicant shall submit the Storm Water Pollution Prevention Plan (SWPPP) to Public Works. A copy of the approved SWPPP and all required records, updates, test results and inspection reports shall be maintained on the construction site and be available for review upon request.
 - n. Applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) and comply with the State "General Permit for Storm Water Discharges Associated with Construction Activity". The Waste Discharge Identification Number (WDID), issued by SWRCB, shall be submitted to Public Works prior to release of the building permit. Contact the SWRCB at 1-866-563-3107 for further information.
2. ENVIRONMENTAL HEALTH DEPARTMENT (Contact: [209] 468-3420. See memo dated November 7, 2024)

- a. A soil suitability and nitrate loading study incorporating proposed staff and customer use shall be submitted to the Environmental Health Department, indicating that the area is suitable for septic system usage. The studies must be approved by the Environmental Health Department prior to submission of a General Plan Amendment or Zone Reclassification application (San Joaquin County Development Title, Section 9-604.010(d)). The fee will be based on the current schedule at the time of payment.

The sewage disposal system shall comply with the onsite wastewater treatment systems standards of San Joaquin County prior to approval. A percolation test conducted in accordance with the E.P.A. Design Manual - Onsite Wastewater and Disposal Systems is required for each parcel. The fee will be based on the current schedule at the time of payment.

- b. Prior to issuance of building permit, submit to the Environmental Health Department revised site plans showing the location and configuration of any existing and proposed sewage disposal systems, along with the area required to be reserved for future sewage disposal repair/replacement (area for 100% sewage disposal replacement). The plans shall include the design calculations, including the maximum number of persons the sewage disposal system is proposed to serve. In addition, show on revised plans that the disposal field area will be barricaded so it cannot be driven over, parked on, or used as a storage area. This disposal field area must be used for that specific purpose only, and it cannot contain any underground utility lines (San Joaquin County Development Title, Section 9-605.010(c)(3)(5)).
- c. Construction of an individual sewage disposal system(s) under permit and inspection by the Environmental Health Department is required at the time of development (San Joaquin County Development Title, Section 9-605.010).
- d. Construction of an individual domestic water well under permit and inspection by the Environmental Health Department is required at the time of development (San Joaquin County Development Title, Section 9-601.010 (b)).
- e. Submit two (2) hardcopy sets, or one (1) electronic version, of food facility plans to the Environmental Health Department for review and approval prior to issuance of building permit(s) (California Retail Food Code, Article 1, 114380). The fee will be based on the current schedule at the time of payment.
- f. A valid permit from EHD is required prior to operating food facility (California Retail Food Code, Chapter 13, Article 1, Section 14381)
- g. Submit Water Provision Declaration form and Supplemental Water Provision Declaration form to the Environmental Health Department for review. Please contact Natalia Subbotnikova, Program Coordinator, Small Public Water System Program, at (209) 468-0338, for any questions.
- h. Applicant shall contact Natalia Subbotnikova, Program Coordinator, Small Public Water System Program, at (209) 468-0338, to determine if the existing well can be permitted as a public water system prior to issuance of building permits. If a public water system is required, applicant shall submit a Small Public Water System preliminary technical report to the California State Water Resources Control Board, Division of Drinking Water (Water Board) at least six months before initiating construction of any water related improvement, as defined. The issuance of a permit to operate a small public water system by the local primacy agency (EHD) is prohibited without the concurrence of the Water Board. Please contact Gena Farley with the SWRCB Division of Drinking Water at Gena.Farley@waterboards.ca.gov or 209-948-7488, concerning the requirements for preliminary technical report submittal prior to issuance of building permits.

If the Water Board determines that an onsite well shall be used as the potable water source, a permit application to operate Small Public Water System shall be submitted to the EHD for approval prior to issuance of building permits. To issue a permit to operate, concurrence from the Water Board is required. A yearly permit to operate a public water system will be required by the EHD prior to sign off of the certificate of final occupancy (San Joaquin County Development Title, Section 9-602.010 and 9-601.030.).

The supplier must possess adequate financial, managerial, and technical capability to assure delivery of pure, wholesome, and potable drinking water in accordance with San Joaquin County Development Title, Sections 9-602.010 and 9-601.030 and C.C.R., Title 22, and Health and Safety Code, Section 116525 116570.

- i. The existing private water wells shall be tested for nitrates with the results submitted to the Environmental Health Department prior to recordation of the Parcel Map. Samples are to be taken and analyzed by a State-approved laboratory. (San Joaquin County Development Title, Section 9-601.020(j)).
- j. According to EHD records, there are existing domestic well records SR0062006 and SR0062471, and these wells shall be destroyed under permit and inspection by the EHD (San Joaquin County Development Title, Section 9-605.010 & 9-601.020)
- k. Any geotechnical drilling shall be conducted under permit and inspection by The Environmental Health Department (San Joaquin County Development Title, Section 9-601.010(b) and 9-601.020(i)).
- l. Before any hazardous materials/waste can be stored or used onsite, the owner/operator must report the use or storage of these hazardous materials to the California Environmental Reporting System (CERS) at cers.calepa.ca.gov/ and comply with the laws and regulations for the programs listed below (based on quantity of hazardous material in some cases). The applicant may contact the Program Coordinator of the CUPA program, Elena Manzo (209) 953-7699, with any questions.
 1. Any amount but not limited to the following hazardous waste; hazardous material spills, used oil, used oil filters, used oil-contaminated absorbent/debris, waste antifreeze, used batteries or other universal waste, etc. — Hazardous Waste Program (Health & Safety Code (HSC) Sections 25404 & 25180 et sec.)
 2. Onsite treatment of hazardous waste — Hazardous Waste Treatment Tiered Permitting Program (HSC Sections 25404 & 25200 et sec. & California Code of Regulations (CCR), Title 22, Section 67450.1 et sec.)
 3. Reportable quantities of hazardous materials-reportable quantities are 55 gallons or more of liquids, 500 pounds for solids, or 200 cubic feet for compressed gases, with some exceptions. Carbon dioxide is a regulated substance and is required to be reported as a hazardous material if storing 1,200 cubic feet (137 pounds) or more onsite in San Joaquin County — Hazardous Materials Business Plan Program (HSC Sections 25508 & 25500 et sec.)
 4. Any amount of hazardous material stored in an Underground Storage Tank — Underground Storage Tank Program (HSC Sections 25286 & 25280 et sec.)
 - A. If an underground storage tank (UST) system will be installed, a permit is required to be submitted to, and approved by, the San Joaquin County Environmental Health Department (EHD) before any UST installation work can begin.
 - B. Additionally, an EHD UST permit to operate is required once the approved UST system is installed.
 5. Storage of at least 1,320 gallons of petroleum aboveground or any amount of petroleum stored below grade in a vault — Aboveground Petroleum Storage Program (HSC Sections 25270.6 & 25270 et sec.)
 - A. Spill Prevention, Countermeasures and Control (SPCC) Plan requirement
 6. Threshold quantities of regulated substances stored onsite - California Accidental Release Prevention (CalARP) Program (Title 19, Section 2735.4 & HSC Section 25531 et sec.)

A. Risk Management Plan requirement for covered processes

3. SAN JOAQUIN COUNCIL OF GOVERNMENTS (Contact: [209] 235-0600. See memo dated November 5, 2024)
 - a. This project is subject to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) must provide a Certificate of Payment prior to issuance of any grading or building permits.

NOTES AND INFORMATION ONLY

See the Airport Land Use Commission letter dated November 5, 2024.

See United States Fish and Wildlife Service letter dated April 7, 2025.

See California Department of Conservation Geologic Energy Management Division letter dated January 6, 2026.

See Pacific Gas and Electric Company letter dated January 17, 2026.



**Planning Commission Staff Report
Item # 2, July 16, 2026
Conditional Use Permit No. PA-2500075
Prepared by: Stephanie Stowers**

PROJECT SUMMARY

Applicant Information

Property Owner: Frank J. Borges
Project Applicant: Orland Power Solutions, LLC (c/o Jeff Nelson)

Project Site Information

Project Address: 8350 East Brady Road, Manteca
8576 East Brady Road, Manteca
Project Location: On the south side of Brady Road, approximately 3,000 feet east of Manteca Road, south of Manteca

Parcel Number (APN):	257-220-04 & 05	Water Supply:	Private (well)
General Plan Designation:	A/G	Sewage Disposal:	Private (septic system)
Zoning Designation:	AG-40	Storm Drainage:	Private (retention pond)
Project Size:	2.9 acres	100-Year Flood:	No (X)
Parcel Size:	78.8 acres	Williamson Act:	Yes
Community:	None	Supervisory District:	5

Environmental Review Information

CEQA Determination: Mitigated Negative Declaration (Attachment C)

Project Description

This project is a Conditional Use Permit to construct and operate a manure anaerobic digestion facility by configuring two above-ground cow manure “digesters”. Located on a 2.9-acre portion of an existing 78.8-acre dairy site, the project includes installation of two containment structures measuring 40 feet wide by 180 feet deep (7,200 square feet) and approximately 12.5 feet in height with a concrete base with a rubber bladder. A third external bladder will be used as an emergency methane gas containment in lieu of a combustion flare. Manure wastewater from the existing lagoons and manure will be pumped approximately 100 yards into the digester bladders. The biogas from the bladders will be converted into biomethane gas (RNG) and compressed then loaded onto gas trucks for final distribution. Once fully operation it is estimated that the project will generate 12 truck trips a month. (Use Type: Renewable Energy – Biomass)

Recommendation

1. Accept the Mitigated Negative Declaration (Attachment C),
2. Adopt the Mitigation Monitoring and Reporting Program (Attachment D),
3. Adopt the Williamson Act Principals of Compatibility and Findings for Use Permit (Attachment E),
4. Approve Conditional Use Permit No. PA-2500075 subject to the recommended Conditions of Approval (Attachment F).

This page intentionally left blank.

NOTIFICATION & RESPONSES

(See Attachment B, Response Letters)

Public Hearing Notices

Legal ad for the public hearing published in the Stockton Record: June 26, 2026.

Number of Public Hearing notices: 66

Date of Public Hearing notice mailing: June 26, 2026.

Referrals and Responses

- **Early Consultation Date:** September 10, 2025
- **Mitigated Negative Declaration Posting Date:** June 2, 2026
- **Project Referral with Environmental Determination Date:** May 29, 2026
- **OPR State Clearinghouse #:** 2026060079

Agency Referrals	Early Consultation	Referral
County Departments		
Ag Commissioner		
Animal Control		
Assessor		
Community Development		
Building Inspection		
Fire Prevention Bureau		
Public Works	12/31/25	
Surveyor		
Environmental Health	9/15/25	
Sheriff's Office		
Mosquito & Vector Control		
Supervisor: District 5		
State Agencies		
Fish & Wildlife, Division: 2	9/22/25	6/24/26
Native American Heritage Commission		
Caltrans District 10		
Federal Agencies		
F.E.M.A.		

Agency Referrals	Early Consultation	Referral
Local Agencies		
Central SJ Water Conservation District		
CVRWQB		
Farmington Fire District		
S.J.C.O.G.	9/11/25	
Escalon Unified School District		
Air Pollution Control District	10/8/25	6/30/26
Miscellaneous		
P.G.&E.	9/11/25	
United Auburn Indian Community		
Farm Bureau		
Builders Exchange		
Carpenters Union		
CA North Valley Yokuts Tribe		
Buena Vista Tribe Rancheria		
CA Tribal TANF Partnership		
CA Valley Miwok Tribe		
Haley Flying Service		
Precissi Flying Service		
Sierra Club		

This page intentionally left blank.

ANALYSIS

Background

The project site consists of two parcels, APN: 257-220-04 & -05, totaling 78.8 acres. Both parcels are developed as a dairy with accessory structures, and residences. The dairy continues to remain in operation.

Operations

Manure wastewater from the preexisting regulatory compliant lagoons and manure pit on the dairy property will be pumped approximately 100 yards into the digester bladders via a non-combustion based flush pump system and the manure wastewater will be heated by an electric boiler. The biogas output from the bladders will be converted into biomethane (a.k.a. Renewable Natural Gas – RNG) then compressed and loaded gas transport trucks with tube trailers for distribution. The facility will operate 24 hours per day, with a total of 2 employees on site during operations.

All manure processed at this facility will be supplied from the on-site dairy. No manure will be brought in from off-site.

In the event of any complications with the bladder structures, any released manure wastewater will be diverted back to the original dairy manure containment ponds with the aid of an electricity driven pump. The project does not rely on the combustion of the biogas or biomethane, thus no combustion-related emissions.

Parking

Pursuant to Development Title Section 9-406.040, the number of required parking spaces required for the Renewable Energy use type is determined by the Zoning Administrator. The Zoning Administrator reviewed the proposed operations and has determined that 3 parking spaces must be provided based on the number of employees. This requirement has been included in the recommended Conditions of Approval.

Williamson Act

In 1978, the subject parcel was placed under Williamson Act Contract No. 78-C1- 223, which allows reduced property taxes in exchange for limiting use to specifically defined agricultural uses (Development Title Section 9-702.060[b]). As a Renewable Energy – Biomass use, the project complies with Development Title Section 9-702.060(b) and is an allowed use under the contract. The Williamson Act Principles of Compatibility are provided in Attachment E.

Environmental Document

The initial IS/MND was posted to the CEQA Clearinghouse site on June 2, 2026, and circulated for 30 days. The initial study concluded that any impacts associated with the development of the proposed project may be reduced to less than significant levels with the incorporation of mitigation measures. The applicant has agreed to participate in the San Joaquin Council of Government's San Joaquin Multi-Species and Habitat Conservation Plan (SJMSCP), and participation in the plan was assumed in the initial study. The mitigated negative declaration (MND) was posted for review and public comment on December 16, 2025. A Mitigation Monitoring and Reporting Program (MMRP) has been drafted (Attachment D), and adoption of the MND and MMRP is included in staff's recommendation. The MMRP includes participation in the SJMSCP.

This page intentionally left blank.

RECOMMENDATION

It is recommended that the Planning Commission:

Recommendation

1. Accept the Mitigated Negative Declaration (Attachment C),
2. Adopt the Mitigation Monitoring and Reporting Program (Attachment D),
3. Adopt the Williamson Act Principals of Compatibility and Findings for Use Permit (Attachment E),
4. Approve Conditional Use Permit No. PA-2500075 subject to the recommended Conditions of Approval (Attachment F).

Attachments:

Attachment A – Site Plan

Attachment B – Response Letters

Attachment C – Environmental Document

Attachment D – Mitigation Monitoring and Reporting Plan

Attachment E – Findings: Williamson Act Principles of Compatibility and Findings for Use Permit

Attachment F – Conditions of Approval

This page intentionally left blank.

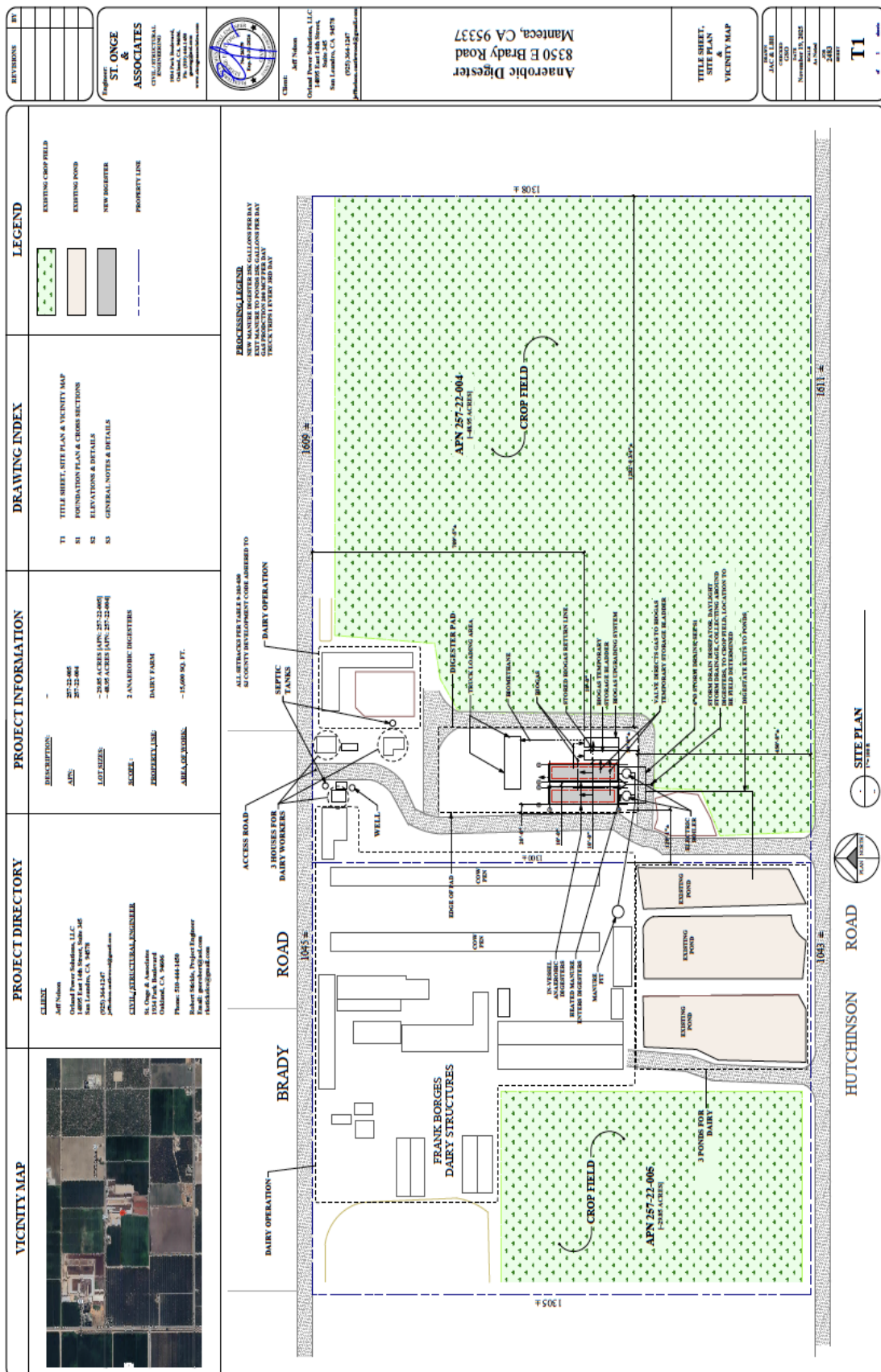


Attachment A

Site Plan

This page intentionally left blank.

Planning Commission Staff Report, PA-2500075 (CUP)
Site Plan



This page intentionally left blank.



Attachment B

Response Letters

This page intentionally left blank.



SAN JOAQUIN
COUNTY
Greatness grows here.



Department of Public Works

Fritz Buchman, Director

Alex Chetley, Deputy Director - Development

Kristi Rhea, Deputy Director - Administration

David Tolliver, Deputy Director - Operations

Najee Zarif, Deputy Director - Engineering

December 31, 2025

MEMORANDUM

TO: Community Development Department
CONTACT PERSON: Stephanie Stowers

FROM: Shayan Rehman, Engineering Services Manager ^{SR}
Development Services Division

SUBJECT: PA-2500075 (C); A Conditional Use Permit application to establish an anaerobic dairy digester consisting of two 7,200 square foot digester buildings on a 2-acre project footprint on two parcels totaling 78.8-acres. The proposed anaerobic digesters produce methane from cow manure. The parcel has direct access from East Brady Road. The project site is currently served by an on-site well for water, an on-site septic system for wastewater, and natural storm drainage. The parcel is under Williamson Act contract; located on the South side of East Brady Road, 3,130' East of South Manteca Boulevard, Manteca.
(Supervisory District 5)

OWNER: Frank J Borges

APPLICANT: Orland Power Solutions, LLC

ADDRESS: 8350 E Brady Road, Manteca

APN: 257-220-05, -04

INFORMATION:

The site is not currently located within a Federal Emergency Management Agency Designated Flood Hazard Area.

Brady Road has an existing right-of-way width of 40 feet and a planned right-of-way width of 50 feet.

RECOMMENDATIONS:

- 1) An encroachment permit shall be required for all work within road right-of-way. (Note: Driveway encroachment permits are for flatwork only – all vertical features, including but not limited to fences, walls, private light standards, rocks, landscaping and cobbles are not allowed in the right-of-way.) (Development Title Sections 9-607.020 and 9-607.040)
- 2) The driveway approach shall be improved in accordance with the requirements of San Joaquin County Improvement Standards Drawing No. 17 [return radii for truck-trailer egress]

1810 East Hazelton Avenue | Stockton, California 95205 | T 209 468 3000 | F 209 468 2999

Follow us on Facebook @ PublicWorksSJC Visit our website: www.sjgov.org/pubworks

PA-25000075 (C)

shall be designed to prevent encroachment onto opposing lanes of traffic] prior to final inspection. (Development Title Section 9-607.040) .

- 3) The Traffic Impact Mitigation Fee shall be required for any incremental traffic resulting from this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. The fee shall be automatically adjusted July 1 of each year by the Engineering Construction Cost Index as published by the Engineering News Record. (Resolutions R-00-433)
- 4) The Regional Transportation Impact Fee shall be required for any incremental traffic resulting from this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. (Resolution R-06-38)
- 5) The developer shall provide drainage facilities in accordance with the San Joaquin County Development Standards. Retention basins shall be fenced with six (6) foot high chain link fence or equal when the maximum design depth is 18 inches or more. Required retention basin capacity shall be calculated and submitted along with a drainage plan for review and approval, prior to release of building permit. (Development Title Section 9-606)
- 6) A copy of the Final Site Plan shall be submitted prior to release of building permit.
- 7) This project is subject to the NPDES Region-Wide Permit requirements and shall comply with the following conditions. Prior to release of the building permit, plans and calculations shall be submitted and approved by the Public Works Department – Water Resources Division (209-468-9360):
 - a) Treatment: A registered professional engineer shall design the site to treat the 85th percentile storm as defined in the County's 2023 Storm Water Quality Control Criteria Plan (SWQCCP).
 - b) Hydromodification: A registered professional engineer shall design the site to comply with the volume reduction requirement outlined in the County's 2023 SWQCCP
 - c) Trash: A registered professional engineer shall design the site to comply with the trash control requirement outlined in the County's 2023 SWQCCP.
- 8) Prior to release of the building permit, the owner shall enter into an agreement with San Joaquin County for post-construction maintenance of stormwater quality facilities.
- 9) Prior to release of the building permit the applicant shall submit a Storm Water Quality Control Plan (SWQCP) to Public Works that complies with all requirements of the 2023 SWQCCP
- 10) Prior to release of the building permit the applicant shall submit the Storm Water Pollution Prevention Plan (SWPPP) to Public Works. A copy of the approved SWPPP and all required records, updates, test results and inspection reports shall be maintained on the construction site and be available for review upon request.

SR:GM:GG



Environmental Health Department

Jasjit Kang, REHS, Director

Muniappa Naidu, REHS, Assistant Director

PROGRAM COORDINATORS

Jeff Carruesco, REHS, RDI

Willy Ng, REHS

Steven Shih, REHS

Elena Manzo, REHS

Natalia Subbotnikova, REHS

September 15, 2025

To: San Joaquin County Community Development Department
Attention: Stephanie Stowers

From: Rena' LeRoy; (209) 616-3021 
Registered Environmental Health Specialist

RE: **PA-2500075 (C), Referral, SU-2500733**
8350 E. Brady Rd., Manteca APN: 257-220-05, -04

The following requirements have been identified as pertinent to this project. Other requirements may also apply. These requirements cannot be modified.

- 1) Submit Water Provision Declaration form to the Environmental Health Department for review. If the EHD determines that the facility is classified as a Small Public Water System (SPWS), the applicant shall submit a Preliminary Technical Report to the California State Water Resources Control Board, Division of Drinking Water (Water Board) prior to issuance of building permits and at least six months before initiating construction of any water related improvement, as defined. The issuance of a permit to operate a small public water system by the local primacy agency, EHD, is prohibited without the concurrence of the Water Board. Please contact Gena Farley at Gena.Farley@waterboards.ca.gov or 209-948-7488 with the SWRCB Division of Drinking Water concerning the requirements for preliminary technical report submittal prior to issuance of building permits. All dairy in-vessel digestion operations shall comply with the Enforcement Agency Notification requirements set forth in Title 14, California Code of Regulations 17896, Division 7, Chapter 5.0, Article 3.0 (commencing with section 18100).

If the Water Board determines that the applicant has met the requirements of Senate Bill 1263 and Health and Safety Code section 11652, a permit application to operate Small Public Water System shall be submitted to the EHD for approval prior to issuance of building permits. To issue a permit to operate, concurrence from the Water Board is required. An annual permit to operate a public water system will be required by the Environmental Health Department prior to sign off of the certificate of final occupancy (San Joaquin County Development Title, Section 9-602.010 and 9-601.030). An onsite well shall meet public well standards to serve the potable water supply.

- 2) All dairy in-vessel digestion operations shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with section 18100).

1868 E. Hazelton Avenue | Stockton, California 95205 | T 209 468-3420 | F 209 464-0138 | www.sjgov.org/ehd

- 3) Any geotechnical drilling shall be conducted under permit and inspection by The Environmental Health Department (San Joaquin County Development Title, Section 9-1115.3 and 9-1115.6)
- 4) Before any hazardous materials/waste can be stored or used onsite, the owner/operator must report the use or storage of these hazardous materials to the California Environmental Reporting System (CERS) at cers.calepa.ca.gov/ and comply with the laws and regulations for the programs listed below (based on quantity of hazardous material in some cases). The applicant may contact the Program Coordinator of the CUPA program, Muniappa Naidu (209) 468-3439, with any questions.
 - a) Any amount but not limited to the following hazardous waste; hazardous material spills, used oil, used oil filters, used oil-contaminated absorbent/debris, waste antifreeze, used batteries or other universal waste, etc. – Hazardous Waste Program (Health & Safety Code (HSC) Sections 25404 & 25180 et sec.)
 - b) Onsite treatment of hazardous waste – Hazardous Waste Treatment Tiered Permitting Program (HSC Sections 25404 & 25200 et sec. & California Code of Regulations (CCR), Title 22, Section 67450.1 et sec.)
 - c) Reportable quantities of hazardous materials-reportable quantities are 55 gallons or more of liquids, 500 pounds for solids, or 200 cubic feet for compressed gases, with some exceptions. Carbon dioxide is a regulated substance and is required to be reported as a hazardous material if storing 1,200 cubic feet (137 pounds) or more onsite in San Joaquin County – Hazardous Materials Business Plan Program (HSC Sections 25508 & 25500 et sec.)
 - d) Any amount of hazardous material stored in an Underground Storage Tank – Underground Storage Tank Program (HSC Sections 25286 & 25280 et sec.)
 - i) If an underground storage tank (UST) system will be installed, a permit is required to be submitted to, and approved by, the San Joaquin County Environmental Health Department (EHD) before any UST installation work can begin.
 - ii) Additionally, an EHD UST permit to operate is required once the approved UST system is installed.
 - e) Storage of at least 1,320 gallons of petroleum aboveground or any amount of petroleum stored below grade in a vault – Aboveground Petroleum Storage Program (HSC Sections 25270.6 & 25270 et sec.)
 - i) Spill Prevention, Countermeasures and Control (SPCC) Plan requirement
 - f) Threshold quantities of regulated substances stored onsite - California Accidental Release Prevention (CalARP) Program (Title 19, Section 2735.4 & HSC Section 25531 et sec.)
 - i) Risk Management Plan requirement for covered processes



SJCOG, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0574 • Email: boyd@sjcog.org

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

SJMSCP RESPONSE TO LOCAL JURISDICTION (RTLJ) ADVISORY AGENCY NOTICE TO SJCOG, Inc.

To: Stephanie Stowers, San Joaquin County, Community Development Department
From: Laurel Boyd, SJCOG, Inc. Phone: (209) 235-0574 Email: boyd@sjcog.org
Date: September 11, 2025
Local Jurisdiction Project Title: PA-2500075 (C)
Assessor Parcel Number(s): 257-220-04, -05
Local Jurisdiction Project Number: PA-2500075 (C)
Total Acres to be converted from Open Space Use: Unknown
Habitat Types to be Disturbed: Agricultural Habitat Land
Species Impact Findings: Findings to be determined by SJMSCP biologist.

Dear Ms. Stowers:

SJCOG, Inc. has reviewed the application referral for PA-2500075 (C). This project consists of a Conditional Use Permit application to establish an anaerobic dairy digester consisting of two 7,200 square foot digester buildings on a 2-acre project footprint on two parcels totaling 78.8 acres. The proposed anaerobic digesters produce methane from cow manure. The parcel has direct access from East Brady Road. The project site is currently served by an onsite well for water, an onsite septic system for wastewater, and natural storm drainage. The project site is on the south side of East Brady Road, 3,130 feet east of South Manteca Boulevard, Manteca (APN/Address: 257-220-04, -05 / 8350 E Brady Road, Manteca).

San Joaquin County is a signatory to San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Participation in the SJMSCP satisfies requirements of both the state and federal endangered species acts, and ensures that the impacts are mitigated below a level of significance in compliance with the California Environmental Quality Act (CEQA). The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measures are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP. Although participation in the SJMSCP is voluntary, Local Jurisdiction/Lead Agencies should be aware that if project applicants choose against participating in the SJMSCP, they will be required to provide alternative mitigation in an amount and kind equal to that provided in the SJMSCP.

This project is subject to the SJMSCP and is located within the unmapped land use area. Per requirements of the SJMSCP, unmapped projects are subject to case-by-case review. This can be a 90 day process and it is recommended that the project applicant contact SJMSCP staff as early as possible. It is also recommended that the project applicant obtain an information package. <http://www.sjcog.org>

If this project is approved by the Habitat Technical Advisory Committee and the SJCOG Inc. Board, the following process must occur to participate in the SJMSCP:

- Schedule a SJMSCP Biologist to perform a pre-construction survey *prior to any ground disturbance*
- SJMSCP Incidental take Minimization Measures and mitigation requirement:
 1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
 2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
 3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:

- d. Purchase approved mitigation bank credits.
- 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

- Receive your Certificate of Payment and release the required permit

It should be noted that if this project has any potential impacts to waters of the United States [pursuant to Section 404 Clean Water Act], it would require the project to seek voluntary coverage through the unmapped process under the SJMSCP which could take up to 90 days. It may be prudent to obtain a preliminary wetlands map from a qualified consultant. If waters of the United States are confirmed on the project site, the Corps and the Regional Water Quality Control Board (RWQCB) would have regulatory authority over those mapped areas [pursuant to Section 404 and 401 of the Clean Water Act respectively] and permits would be required from each of these resource agencies prior to grading the project site.

If you have any questions, please call (209) 235-0600.



S J C O G , I n c .

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0574 • Email: boyd@sjcog.org

SJMSCP HOLD

TO: Local Jurisdiction: Community Development Department, Planning Department, Building Department, Engineering Department, Survey Department, Transportation Department,
Other: _____

FROM: Laurel Boyd, SJCOG, Inc.

**DO NOT AUTHORIZE SITE DISTURBANCE
DO NOT ISSUE A BUILDING PERMIT
DO NOT ISSUE _____ FOR THIS PROJECT**

The landowner/developer for this site has requested coverage pursuant to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). In accordance with that agreement, the Applicant has agreed to:

- 1) SJMSCP Incidental Take Minimization Measures and mitigation requirement:
 1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
 2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
 3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.
- Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

Project Title: PA-2500075 (C)

Landowner: Frank J Borges

Applicant: Oland Power Solutions, LLC

Assessor Parcel #s: 257-220-04, -05

T _____, R _____, Section(s): _____

Local Jurisdiction Contact: Stephanie Stowers

The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measures are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP.



September 11, 2025

Sean Cardenas
Office Assistant Specialist
San Joaquin County
(209) 468-3229

Ref: Gas and Electric Transmission and Distribution

Dear Sean Cardenas,

Thank you for submitting the **PA-2500075 (C)** project 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/account/service-requests/building-and-renovation.html>.
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 24 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 24 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 ($90^\circ \pm 15^\circ$). All utility lines crossing the gas pipeline must have a minimum of 24 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), plant only low-growing shrubs under the wire zone and only grasses within the area directly below the tower. Along the border of the transmission line right-of-way, plant only small trees no taller than 10 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) 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.

CDFW Comments on the PA-2500075 (C) Neighborhood Re-referral / Project Tracking # 2025-0260-0000

From Donaldson, Hailey@Wildlife <Hailey.Donaldson@Wildlife.ca.gov>

Date Mon 9/22/2025 7:26 AM

To Stowers, Stephanie [CDD] <sstowers@sjgov.org>

Cc Wood, Dylan@Wildlife <Dylan.Wood@wildlife.ca.gov>; Sheya, Tanya@Wildlife <Tanya.Sheya@wildlife.ca.gov>; Kilgour, Morgan@Wildlife <Morgan.Kilgour@Wildlife.ca.gov>; Wildlife R2 CEQA <R2CEQA@wildlife.ca.gov>

Dear Stephanie Stowers:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Request for Comments from the San Joaquin County Community Development Department for the PA-2500075 (C) (Project) in San Joaquin pursuant the California Environmental Quality Act (CEQA) statute and guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on Projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) The Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required. CDFW also administers the Native Plant Protection Act, Natural Community Conservation Program, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

The Project site is located in San Joaquin County at 8350 E Brady Road, Manteca, CA 95337; Longitude: 37.72701, Latitude: -121.20430 (WGS 84 datum, decimal degrees); Assessor's Parcel Numbers: 257-220-05 and 257-220-04.

The Project consists of a Conditional Use Permit application to establish an aerobic dairy digester consisting of two 7,200 square foot digester buildings on a 2-acre project footprint on two parcels totaling 78.8 acres. The proposed anaerobic digesters produce methane from cow manure.

The Project description should include the whole action as defined in the CEQA Guidelines section 15070 and should include appropriate detailed exhibits disclosing the Project area including temporary impacted areas such as equipment staging area, spoils areas, adjacent infrastructure development, and access and haul roads if applicable.

ENVIRONMENTAL SETTING

CDFW recommends that the environmental document includes a complete environmental assessment of the existing biological conditions within the Project area including but not limited to the type, quantity and locations of the habitats, flora and fauna. Maps and information regarding any survey efforts should be included within the environmental document. Any surveys of the biological conditions and related environmental analysis should be completed by qualified personnel with sufficient experience in the work performed for the Project. CDFW recommends that the California Natural Diversity Database (CNDDDB), as well as previous studies performed in the area, be consulted to assess the potential presence of sensitive species and habitats.

To identify a correct environmental baseline, the environmental document should include a complete and current analysis of endangered, threatened, candidate, and locally unique species potentially present in or near the Project area. CDFW recommends placing special emphasis on evaluating the presence and status of sensitive habitats and any biological resources that are rare or unique to the area. For this Project this includes, but is not limited to streambeds, riparian vegetation, and open grasslands that may be present within the Project boundaries or its vicinity.

Species-specific surveys should be conducted at the right time to ascertain the presence of species within the Project vicinity. Results from recent surveys conducted within the Project limits and its vicinity should be included within the environmental document. We recommend using the widely accepted survey protocols. Additional information regarding survey protocols can be obtained at <https://wildlife.ca.gov/Conservation/Survey-Protocols>. Project site assessments for rare plants and rare natural communities follow CDFW's 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. The guidance document is available here: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

IMPACT ANALYSIS AND MITIGATION MEASURES

The environmental document should clearly identify and describe all short-term, long-term, permanent, or temporary impacts to biological resources under CDFW's jurisdiction, including all direct and foreseeable indirect impacts caused by the proposed Project. The environmental document should define the threshold of significance for each impact and describe the criteria used to determine each threshold (CEQA Guidelines, § 15064, subd. (f)).

CDFW recommends that the environmental documentation identify habitats and provide a discussion of how the proposed Project will affect their function and value, and provide scientifically supported discussion of the significance of the project's impacts and any proposed avoidance, minimization, and/or mitigation measures to address the Project's impact upon fish and wildlife and their habitat. The environmental document should incorporate mitigation

performance standards that would ensure that any significant impacts are reduced as expected. Mitigation measures proposed in the environmental document should be made a condition of approval of the Project. Please note that obtaining a permit from CDFW by itself with no other mitigation proposal may constitute mitigation deferral.

Threatened, Endangered, Candidate Species

The Project area as shown in the information provided includes potential habitat for State and federally listed species. If during the environmental analysis for the Project, it is determined that the Project may have the potential to result in "take", as defined in the Fish & G. Code, section 86, of a State-listed species, the environmental document shall disclose an Incidental Take Permit (ITP) or a consistency determination (Fish & G. Code, §§ 2080.1 & 2081) may be required prior to starting construction activities. The environmental document must include all avoidance and minimization to reduce the impacts to a less than significant level. If impacts to listed species are expected to occur even with the implementation of these measures, mitigation measures shall be proposed to fully mitigate the impacts to State-listed species (Cal. Code Regs., tit. 14, § 783.2, subd.(a)(8)).

CDFW encourages early coordination to determine appropriate measures to offset Project impacts and facilitate future permitting processes and to coordinate with the U.S. Fish and Wildlife Service to coordinate specific measures if federally-listed species are present within the Project limits.

*Swainson's Hawk (*Buteo swainsoni*) Protocol Level Survey.*

Swainson's hawk is listed as a *threatened* species under CESA and has additional protection under the Migratory Bird Treaty Act (MBTA) and Fish and Game Code sections 3503 and 3503.5. Within a 3-mile radius of the project site, there are 8 occurrence records for Swainson's Hawk (CDFW 2018; California Natural Diversity Database (CNDDDB) layer in Biogeographic Observation and Information System (BIOS)). The surrounding area of the Project area consists of agricultural fields which may be providing foraging habitat for Swainson's hawks, and since construction activities are planned on land that is adjacent to potential nesting habitat for Swainson's hawks, CDFW recommends that a pre-construction Swainson's hawk nesting survey be conducted within a minimum 0.5-mile radius around the project area.

Recommendation or Recommended Mitigation Measure: CDFW recommends the Project incorporate a mitigation measure with language that clarifies that protocol level surveys shall be conducted prior to construction activities and continued annually for the duration of Project activities. An example measure is outline below:

BIO 1 - Swainson's hawk Protocol Survey. A qualified biologist shall conduct a Swainson's hawk survey within a minimum 0.5-mile radius around the project area. Prior to the start of construction activities and in each subsequent year in which project activities occur. Surveys shall be conducted according to the following the five-period schedule in accordance with the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (Swainson's Hawk Tech. Advis. Comm., 5/2000):

- January to March 20- One (1) Survey, All Day
- March 20 to April 5- Three (3) Surveys, Sunrise to 1000 / 1600 to Sunset
- April 5 to April 20- Three (3) Surveys, Sunrise to 1200 / 1630 to Sunset

- April 21 to June 10- Monitoring
- June 10 to July 30- Three (3) Surveys, Sunrise to 1200 / 1600 to Sunset

If Swainson's Hawk breeding activity is identified during any of the surveys or during construction activities, compliance with CESA shall be demonstrated.

During the nesting season (approximately March 1 to September 1), ground-disturbing activities within a 1,320-foot buffer of occupied nests or nests under construction shall be prohibited to minimize the potential for nest abandonment. While the nest is occupied or under construction, projects activities outside the buffer can take place provided that they do not stress the breeding pair. If project activities are to occur within 0.5 mile of an active nest, the area should be monitored by a qualified biologist prior to and during project activities. If the nesting pair's behavior suggests agitation or disturbance by project activities, all activities in the area shall immediately stop pending consultation with the San Joaquin Council of Governments (SJCOG) if seeking coverage under the San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP) for project activities, otherwise, consult CDFW and demonstrate compliance with CESA. Following a review of the breeding pair's behavior, the qualified biologist, in coordination with CDFW/SJCOG will determine whether project activities in the area may continue to comply with CESA. The qualified biologist shall monitor project activities to ensure that activities do not occur within the buffer. Any modifications to this buffer shall be implemented in coordination with the SJCOG or CDFW as appropriate. The qualified biologist will be required to monitor the nest and determine that the reduced buffer does not cause nest abandonment.

Migratory Birds and Birds of Prey

Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) (16 U.S.C., §§ 703-712). CDFW implemented the MBTA by adopting the Fish & G. Code section 3513. Fish & G. Code sections 3503, 3503.5 and 3800 provide additional protection to nongame birds, birds of prey, their nests and eggs. Potential habitat for nesting birds and birds of prey is present within the Project area. The proposed Project should disclose all potential activities that may incur a direct or indirect take to nongame nesting birds within the Project footprint and its close vicinity. Appropriate avoidance, minimization, and/or mitigation measures to avoid take must be included in the environmental document. Measures to avoid the impacts should include species specific work windows, biological monitoring, installation of noise attenuation barriers, etc.

Recommendation or Recommended Mitigation Measure: Because there is potentially suitable nesting habitat for nesting birds, CDFW recommends conducting pre-construction and annual nesting bird surveys at the project site throughout the duration of proposed project activities. CDFW recommends that the following Mitigation Measure be included in the MND to ensure compliance with the MBTA as well as Fish & G. Code section 3513. Fish & G. Code sections 3503, 3503.5 and 3800.

BIO 2 - Nesting Bird Survey. If project-related activities are scheduled between February 1 to August 31 (the typical nesting season), a focused survey for nests shall be conducted by a qualified biologist within no greater than fifteen (15) calendar days prior to the beginning of Project-related activities. A qualified biologist shall survey a minimum radius of 500-feet for migratory birds and 1/2-mile for raptors around the Project area that can be accessed by the project proponent. The results of the survey shall be provided to the San Joaquin Community

Development Department upon completion. If no active nests are found, project activities may proceed as scheduled.

Active Nests. If an active nest is found, active nests should be avoided, and a no disturbance or destruction buffer shall be determined and established by a qualified biologist. The buffer shall be kept in place until after the breeding nesting season or the qualified biologist confirms the young have fledged, are foraging independently, and the nest is no longer active for the season. The extent of these buffers shall be determined by the qualified biologist and will depend on the species present, the level of noise or construction disturbance, line of sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers.

Project Delay. If a lapse in project-related work of fourteen (14) calendar days or longer occurs, the qualified biologist shall complete another focused survey before Project work can be reinitiated.

Project Proponent Responsibility. It is the project proponent responsibility to comply with Fish and Game Code Sections 3503, 3503.5, and 3513, regardless of the time of year.

River, Lake, and Stream Resources

The environmental document should identify all activities subject to Section 1602 of the Fish and Game Code. These activities include: 1) Substantially divert or obstruct the natural flow of any river, stream or lake; 2) Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or 3) Deposit debris, waste or other materials where it may pass into any river, stream or lake. This list of activities apply to all perennial, intermittent, and ephemeral rivers, streams, and lakes, including ponds and drainages, floodplains, and any habitats supported by these features such as wetlands and riparian habitats. The environmental document should identify any potential impacts to these resources. The environmental document should include mapping of lakes, streams, and associated habitat that will be temporarily and/or permanently impacted by the proposed Project including an estimate of impact to each habitat type.

If it is determined that the Project would be subject to Section 1602 of the Fish and Game Code, the environmental document should propose mitigation measures to avoid, minimize, and mitigate impacts from those activities.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

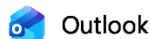
Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to provide early comments on the Project and to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. Questions regarding this letter or further coordination should be directed to Hailey Donaldson, Environmental Scientist at (916) 216-6253 or hailey.donaldson@wildlife.ca.gov.

Sincerely,

Hailey Donaldson
California Department of Fish and Wildlife
Environmental Scientist
Cell: (916) 216-6253
1701 Nimbus Rd.
Rancho Cordova, CA 95670





CDFW Comments on the MND for the Orland Power Solutions Borges Dairy Digester Project (SCH# 2026060079)

From Capehart, Griffin@Wildlife <Griffin.Capehart@wildlife.ca.gov>

Date Wed 6/24/2026 12:46 PM

To Stowers, Stephanie [CDD] <sstowers@sjgov.org>

Cc Wildlife R2 CEQA <R2CEQA@wildlife.ca.gov>; Wood, Dylan@Wildlife <Dylan.Wood@wildlife.ca.gov>; Sheya, Tanya@Wildlife <Tanya.Sheya@wildlife.ca.gov>; Kilgour, Morgan@Wildlife <Morgan.Kilgour@Wildlife.ca.gov>

You don't often get email from griffin.capehart@wildlife.ca.gov. [Learn why this is important](#)

Dear Stephanie Stowers:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from San Joaquin Community Development Department for the PA-2500075 Orland Power Solutions Borges Dairy Digester Project (Project) in San Joaquin County pursuant the California Environmental Quality Act (CEQA) statute and guidelines. CDFW has previously submitted comments for the Project during the initial request for comments period.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on Projects and related activities that have the potential to adversely affect fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

The Project site is located at 8350 E. Brady Road in Manteca, CA 95337; Latitude 37.72697°, Longitude -121.20204°; APN 257-22-005 and 257-22-004.

The Project consists of the construction of a commercial proof of concept anaerobic digestion facility (2.9 acres) that will consist of two manure digesters that will capture and contain methane from dairy cow manure stored on-site. The resultant biomethane will be shipped offsite for end users.

The Project description should include the whole action as defined in the CEQA Guidelines section 15070 and should include appropriate detailed exhibits disclosing the Project area including temporary impacted areas such as equipment staging area, spoils areas, adjacent infrastructure development, and access and haul roads if applicable.

IMPACT ANALYSIS AND MITIGATION MEASURES

Comment 1 Swainson's Hawk (*Buteo swainson*), page 35

Issue: Swainson's Hawk is listed as a threatened species under CESA and has additional protection under the Migratory Bird Treaty Act (MBTA) and Fish and Game Code sections 3503 and 3503.5. There are twenty (20) mapped occurrences within five miles of the proposed Project for Swainson's Hawk (CDFW 2018; California Natural Diversity Database (CNDDDB) layer in Biogeographic Observation and Information System (BIOS)). The mature trees adjacent to the proposed Project may provide suitable nesting habitat while the non-orchard agriculture fields in the surrounding area may provide suitable foraging habitat for Swainson's Hawk. CDFW recommends the project proponent (or contractor thereof) conduct a pre-construction Swainson's Hawk survey to identify any nests within the vicinity of the Project that may be disturbed by Project activities. Nest abandonment or otherwise nest failure due to Project activities could be considered a significant impact under CEQA.

Recommendation or Recommended Mitigation Measure: CDFW recommends the Project incorporate an avoidance and minimization measure that specifies a survey protocol for Swainson's Hawk to be completed prior to the initiation of the proposed Project, and annually thereafter, until the Project is completed. An example measure is outlined below.

BIO-1 – Swainson's Hawk Protocol Survey

Swainson's Hawk Survey. If Project construction work is scheduled during the Swainson's hawk nesting season, a qualified Biologist shall conduct a focused survey for active Swainson's Hawk nests prior to beginning construction. The biologist shall follow the *Swainson's Hawk Technical Advisory Committee's Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (Swainson's Hawk Tech. Advis. Comm., 5/2000). The survey protocol timing is outlined below:

- January to March 20- One (1) Survey, All Day
- March 20 to April 5- Three (3) Surveys, Sunrise to 1000 / 1600 to Sunset
- April 5 to April 20- Three (3) Surveys, Sunrise to 1200 / 1630 to Sunset
- April 21 to June 10- Monitoring
- June 10 to July 30- Three (3) Surveys, Sunrise to 1200 / 1600 to Sunset

If Swainson's hawk breeding activity is identified during any of the surveys or during construction activities, the Qualified Biologist may propose site specific revisions and/or additional measures to CDFW for review and written approval and will ensure compliance with the Sn Joaquin Multi-Species Habitat Conservation and Open Space Plan (SJMSCP)

Swainson's Hawk Nest Avoidance. During the nesting season (approximately March 1 to September 1), Project activities within 1,320 feet of occupied nests or nests under construction shall be prohibited to minimize the potential for nest abandonment. While the nest is occupied or under construction, project activities outside the buffer can take place provided that they do not stress the breeding pair. If project activities are to occur within 0.5 mile of an active nest, the area should be monitored by a qualified biologist prior to and during project activities. If the

nesting pair's behavior suggests agitation or disturbance by project activities, all activities in the area shall cease pending consultation with the San Joaquin Council of Governments (SJCOG) if seeking coverage under the SJMSCP for project activities. Otherwise, consult CDFW and demonstrate compliance with CESA. Following review of the breeding pair's behavior, the qualified biologist, in coordination with CDFW/SJCOG will determine whether the project activities in the area may continue to comply with CESA. The qualified biologist shall monitor project activities to ensure that activities do not occur within the buffer. Any modifications to this buffer shall be implemented in coordination with the SJCOG or CDFW as appropriate. The qualified biologist will be required to monitor the nest and determine that the reduced buffer does not cause nest abandonment.

Comment 2 Migratory Birds and Birds of Prey

Issue: Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) (16 U.S.C., §§ 703-712). CDFW implemented the MBTA by adopting the Fish & G. Code section 3513. Fish & G. Code sections 3503, 3503.5 and 3800 provide additional protection to nongame birds, birds of prey, their nests and eggs. Potential habitat for nesting birds and birds of prey is present within the Project area. The proposed Project should disclose all potential activities that may incur a direct or indirect take to nongame nesting birds within the Project footprint and its close vicinity. Appropriate avoidance, minimization, and/or mitigation measures to avoid take must be included in the environmental document. Measures to avoid the impacts should include species-specific work windows, biological monitoring, installation of noise attenuation barriers, etc.

The gravel lot within the proposed Project area may provide suitable nesting habitat for ground-nesting birds such as Killdeer (*Charadrius vociferus*) and Mourning Dove (*Zenaidura macroura*). Ground disturbance and other construction-related activities may result in take of these species. This potentially significant impact was not considered in the Initial Study. Impacts to bird species protected under the MBTA and Fish & G. Code as a result of Project activities may be considered significant under CEQA.

Recommendation or Recommended Mitigation Measure: CDFW recommends the project incorporate a pre-construction survey measure for nesting birds to identify any active nests within or adjacent to the Project to avoid or minimize impacts to nesting bird species. An example measure is outlined below.

BIO-2 – Nesting Bird Surveys

Nesting Bird Survey. If project-related activities are scheduled between February 1 to August 31 (the typical nesting season), a focused survey for nests shall be conducted by a qualified biologist within no greater than fifteen (15) calendar days prior to the beginning of Project-related activities. A qualified biologist shall survey a minimum radius of 500-feet for migratory birds and 1/2-mile for raptors around the Project area that can be accessed by the project proponent. The results of the survey shall be provided to San Joaquin Community Development Department upon completion. If no active nests are found, project activities may proceed as scheduled.

Active Nests. If an active nest is found, active nests should be avoided, and a no disturbance buffer shall be determined and established by a qualified biologist. The buffer shall be kept in place until after the nesting season or the qualified biologist confirms the young have fledged, are foraging independently, and the nest is no longer active for the season. The extent of these buffers shall be determined by the qualified biologist and will depend on the species present, the level of noise or construction disturbance, line of sight between the nest and the

disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers.

Project Delay. If a lapse in project-related work of fourteen (14) calendar days or longer occurs, the qualified biologist shall complete another focused survey before Project work can be reinitiated.

Permittee Responsibility. It is the project proponent's responsibility to comply with Fish and Game Code Sections 3503, 3503.5, and 3513, regardless of the time of year.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, may have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to provide early comments on the Project and to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. Questions regarding this letter of further coordination should be directed to Griffin Capehart, Environmental Scientist at (916) 767-9766 or Griffin.Capehart@wildlife.ca.gov.

Sincerely,

Griffin Capehart

Environmental Scientist, Habitat Conservation – Region 2

Griffin.Capehart@wildlife.ca.gov

Work: 916-767-9766





October 8, 2025

Stephanie Stowers
San Joaquin County
Community Development Department
1810 E. Hazelton Avenue
Stockton, CA 95205

Project: Conditional Use Permit PA-2500075

District CEQA Reference No: 20251063

Dear Ms. Stowers:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the early consultation (EC) from the County of San Joaquin (County) for the proposed project. Per the EC, the project consists of an anaerobic dairy digester consisting of two 7,200 square-foot digester buildings on a 2-acre project footprint (Project). The Project is located at 8350 E. Brady Road in Manteca, CA.

The District offers the following comments at this time regarding the Project:

1) Project Related Emissions

At the federal level under the National Ambient Air Quality Standards (NAAQS), the District is designated as extreme nonattainment for the 8-hour ozone standards and serious nonattainment for the particulate matter less than 2.5 microns in size (PM_{2.5}) standards. At the state level under California Ambient Air Quality Standards (CAAQS), the District is designated as nonattainment for the 8-hour ozone, PM₁₀, and PM_{2.5} standards.

Based on information provided to the District, Project specific annual criteria pollutant emissions from construction and operation are not expected to exceed any of the significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts (GAMAQI):
<https://ww2.valleyair.org/media/g4nl3p0g/gamaqi.pdf>.

Samir Sheikh
Executive Director/Air Pollution Control Officer

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

www.valleyair.org

www.healthyairliving.com

Printed on recycled paper.

2) Nuisance Odors

While offensive odors rarely cause any physical harm, they can be unpleasant, leading to considerable distress among the public and often resulting in citizen complaints.

The County should consider all available pertinent information to determine if the Project could have a significant impact related to nuisance odors. Nuisance odors may be assessed qualitatively taking into consideration the proposed business or industry type and its potential to create odors, as well as proximity to off-site receptors that potentially would be exposed to objectionable odors. The intensity of an odor source's operations and its proximity to receptors influences the potential significance of malodorous emissions. Any project with the potential to frequently expose members of the public to objectionable odors should be deemed to have a significant impact.

According to the District Guidance for Assessing and Mitigating air Quality Impacts (GAMAQI), a significant odor impact is defined as more than one confirmed complaint per year averaged over a three-year period, or three unconfirmed complaints per year averaged over a three-year period. An unconfirmed complaint means that either the odor or air contaminant release could not be detected, or the source of the odor could not be determined.

The District is available to assist the County with information regarding specific facilities and categories of facilities, and associated odor complaint records.

3) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: <https://ww2.valleyair.org/rules-and-planning/current-district-rules-and-regulations>. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

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 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

This Project will be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. Prior to construction, the Project proponent should submit to the District an application for an ATC. For further information or assistance, the project proponent may contact the District's SBA Office at (209) 557-6446.

3b) District Rule 9510 - Indirect Source Review (ISR)

Per District Rule 9510 section 4.4.3, a development project on a facility whose primary functions are subject to District Rule 2201 or District Rule 2010 are exempt from the requirements of the rule. The District has reviewed the information provided and has determined that the primary functions of this Project are subject to District Rule 2201 (New and Modified Stationary Source Review Rule) or District Rule 2010 (Permits Required). As a result, District Rule 9510 requirements and related fees do not apply to the Project referenced above.

3c) District Rule 4601 (Architectural Coatings)

The Project may be subject to District Rule 4601 since it may utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at:
<https://www2.valleyair.org/media/tkgjeusd/rule-4601.pdf>

3d) District Regulation VIII (Fugitive PM10 Prohibitions)

The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII,

specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at: <https://ww2.valleyair.org/media/fm3irbsq/dcp-form.docx>

Information about District Regulation VIII can be found online at:
<https://ww2.valleyair.org/dustcontrol>

3e) Other District Rules and Regulations

The Project may also be subject to the following District rules: Rule 4102 (Nuisance)

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 Jacob Torrez by e-mail at jacob.torrez@valleyair.org or by phone at (559) 230-6558.

Sincerely,

Mark Montelongo
Director of Policy and Government Affairs



For: Daniel Martinez
Program Manager



June 30, 2026

Stephanie Stowers
San Joaquin County
Community Development
1810 E. Hazelton Ave
Stockton, CA 95205

Project: Mitigated Negative Declaration for Use Permit Application PA-2500075

District CEQA Reference No: 20260667

Dear Ms. Stowers:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Mitigated Negative Declaration (MND) from San Joaquin County (County) for PA-2500075. Per the MND, the project consists of an anaerobic dairy digester consisting of two (2) 7,200 square foot digester buildings on a 2-acre project footprint (Project). The Project is located at 8350 E. Brady Road, in Manteca, CA.

The District offers the following comments at this time regarding the Project:

1) Truck Routing

Truck routing involves the assessment of which roads Heavy Heavy-Duty (HHD) trucks take to and from their destination, and the emissions impact that the HHD trucks may have on residential communities and sensitive receptors.

Since the Project is expected to result in HHD truck trips, the District recommends the County evaluate HHD truck routing patterns for the Project, with the aim of limiting exposure of residential communities and sensitive receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

Samir Sheikh
Executive Director/Air Pollution Control Officer

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

www.valleyair.org

www.healthyairliving.com

Printed on recycled paper.

2) Cleanest Available Heavy-Duty Trucks

The San Joaquin Valley will not be able to attain stringent health-based federal air quality standards without significant reductions in emissions from HHD trucks, the single largest source of NO_x emissions in the San Joaquin Valley. Accordingly, to meet federal air quality attainment standards, the District's ozone and particulate matter attainment plans rely on a significant and rapid transition of HHD fleets to zero or near-zero emissions technologies.

Although the Project is not expected to exceed District significance thresholds, the District recommends that the following measures be considered by the County to reduce Project-related operational emissions:

- *Recommended Measure:* Fleets associated with operational activities utilize the cleanest available HHD trucks, including zero and near-zero technologies.
- *Recommended Measure:* All on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) utilize zero-emissions technologies.

3) Reduce Idling of Heavy-Duty Trucks

The goal of this strategy is to limit the potential for localized PM_{2.5} and toxic air contaminant impacts associated with the idling of Heavy-Duty trucks. The diesel exhaust from idling has the potential to impose significant adverse health and environmental impacts.

Since the Project is expected to result in HHD truck trips, the District recommends the County include measures to ensure compliance of the state anti-idling regulation (13 CCR § 2485 and 13 CCR § 2480) and discuss the importance of limiting the amount of idling, especially near sensitive receptors.

4) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: <https://ww2.valleyair.org/rules-and-planning/current-district-rules-and-regulations>. To identify other District rules or regulations that apply to future

projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

4a) 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 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

This Project will be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. Prior to construction, the Project proponent should submit to the District an application for an ATC. For further information or assistance, the project proponent may contact the District's SBA Office at (209) 557-6446.

4b) District Rule 9510 - Indirect Source Review (ISR)

Per District Rule 9510 section 4.4.3, a development project on a facility whose primary functions are subject to District Rule 2201 or District Rule 2010 are exempt from the requirements of the rule. The District has reviewed the information provided and has determined that the primary functions of this Project are subject to District Rule 2201 (New and Modified Stationary Source Review Rule) or District Rule 2010 (Permits Required). As a result, District Rule 9510 requirements and related fees do not apply to the Project referenced above.

4c) District Rule 4601 (Architectural Coatings)

The Project may be subject to District Rule 4601 since it may utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at:
<https://ww2.valleyair.org/media/tkgjeusd/rule-4601.pdf>

4d) District Regulation VIII (Fugitive PM10 Prohibitions)

The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at: <https://ww2.valleyair.org/media/fm3jrbsq/dcp-form.docx>

Information about District Regulation VIII can be found online at: <https://ww2.valleyair.org/dustcontrol>

4e) Other District Rules and Regulations

The Project may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

The following rules are specific to confined animal operations:

- Rule 4102 (Nuisance) – This rule applies to any source operation that emits or may emit air contaminants or other materials. In the event that the Project or construction of the Project creates a public nuisance, it could be in violation and be subject to District enforcement action.
- Rule 4550 (Conservation Management Practices) – The purpose of this rule is to limit fugitive dust emissions from agricultural operation sites. These sites include areas of crop production, animal feeding operations and unpaved roads/equipment areas. The District's CMP handbook can be found online at the District's website at: https://ww2.valleyair.org/media/ec4byngx/cmp_handbook.pdf.

- Rule 4570 (Confined Animal Facilities) – District Rule 4570 was adopted by the District's Governing Board on June 15, 2006. Dairies with greater than or equal to 500 milk cows are subject to the requirements of District Rule 4570. Therefore, a Rule 4570 application shall also be submitted to the District.

5) 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 Ryan Grossman by e-mail at ryan.grossman@valleyair.org or by phone at (559) 230-6569.

Sincerely,

Mark Montelongo
Director of Policy and Government Affairs



For: Daniel Martinez
Program Manager



Attachment C

Environmental Document

This page intentionally left blank.



Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Jennifer Jolley, Director

Eric Merlo, Assistant Director

Tim Burns, Code Enforcement Chief

Corinne King, Deputy Director of Planning

Jeff Niemeyer, Deputy Director of Building Inspection

MITIGATED NEGATIVE DECLARATION

TO: ☒ Office of Planning & Research
P. O. Box 3044
Sacramento, CA 95812-3044

FROM: San Joaquin County
Community Development Department
1810 East Hazelton Avenue
Stockton, CA 95205

☒ County Clerk, County of San Joaquin

PROJECT TITLE: Conditional Use Permit No. PA-2500075

PROJECT LOCATION: The project site is on the South side of East Brady Road, 3,130' East of South Manteca Boulevard, Manteca., San Joaquin County. (APN/Address: 257-220-05, -04 / 8350 E. Brady Rd., Manteca) (Supervisorial District: 5)

PROJECT DESCRIPTION: A Conditional Use Permit application, This project is a Conditional Use Permit to establish an anaerobic dairy digester consisting of two 7,200 square foot digester buildings on a 2-acre project footprint on two parcels totaling 78.8-acres. The proposed anaerobic digesters produce methane from cow manure. The parcel has direct access from East Brady Road. The project site is currently served by an on-site well for water, an on-site septic system for wastewater, and natural storm drainage.

The Property is zoned AG-40 (General Agriculture, 40-acre minimum) and the General Plan designation is A/G (General Agriculture).

PROPOSER: Frank J. Borges / Frederick Tornatore

This is a Notice of Intent to adopt a Mitigated Negative Declaration for this project as described. San Joaquin County has determined that through the Initial Study that contains proposed mitigation measures all potentially significant effects on the environment can be reduced to a less than significant level. The Mitigated Negative Declaration and Initial Study can be viewed on the Community Development Department website at www.sjgov.org/commdev under Active Planning Applications.

Date: May 29, 2026

Contact Person:
Stephanie Stowers Phone: (209) 468-9653 FAX: (209) 468-3163 Email: ssowers@sjgov.org

1810 E Hazelton Avenue | Stockton, California 95205 | (209) 468-3121 | sjgov.org/departments/cdd

This page intentionally left blank.

Orland Power Solutions
Borges Dairy Digester Project
Borges Dairy, San Joaquin County,
California



Use Permit Application PA-2500075
Project Description and Environmental Analyses

Prepared for:

San Joaquin County Community Development Department
Planning Division
Stockton, CA

Prepared by:

TSS Consultants
Sacramento, CA

April 2026



Table of Contents

1. Project Information.....	6
1.1 Project Description	8
1.1.1 Overview	8
1.1.2 Location and Project Background.....	9
1.1.3 Site, Buildings, and Equipment	15
1.1.4 Roadways and Trucks	15
2. Environmental Factors Potentially Affected	17
2.1 Determination.....	17
3. Purpose of this Initial Study.....	19
4. Evaluation of Environmental Impacts	20
4.1 Aesthetics	21
4.1.1 Setting	22
4.1.2 Impact.....	23
4.1.3 Mitigation.....	24
4.1.4 Conclusion	24
4.2 Agriculture and Forest Resources	24
4.2.1 Setting	25
4.2.2 Impact.....	25
4.2.3 Mitigation.....	26
4.2.4 Conclusion	26
4.3 Air Quality	26
4.3.1 Setting	27
4.3.2 Impacts.....	32
4.3.3 Mitigation.....	33
4.3.4 Conclusion	33
4.4 Biological Resources	33
4.4.1 Setting	34
4.4.2 Impact.....	35
4.4.3 Mitigation.....	36
4.4.4 Conclusion	36
4.5 Cultural Resources	36
4.5.1 Setting	37
4.5.2 Impact.....	37
4.5.3 Mitigation.....	38



4.5.4 Conclusion	38
4.6 Energy.....	38
4.6.1 Setting	38
4.6.2 Impact.....	38
4.6.3 Mitigation.....	38
4.6.4 Conclusion	39
4.7 Geology and Soils	39
4.7.1 Setting	40
4.7.2 Impact.....	41
4.7.3 Mitigation.....	42
4.7.4 Conclusion	42
4.8 Greenhouse Gas Emissions.....	42
4.8.1 Setting	42
4.8.2 Impact.....	43
4.8.3 Mitigation.....	44
4.8.4 Conclusion	44
4.9 Hazards and Hazardous Materials.....	45
4.9.1 Setting	45
4.9.2 Impact.....	46
4.9.3 Mitigation.....	47
4.9.4 Conclusion	47
4.10 Hydrology and Water Quality.....	47
4.10.1 Setting	48
4.10.2 Impact.....	52
4.10.3 Mitigation.....	53
4.10.4 Conclusion	53
4.11 Land Use and Planning	53
4.11.1 Setting	53
4.11.2 Impact.....	56
4.11.3 Mitigation.....	56
4.11.4 Conclusion	56
4.12 Mineral Resources.....	56
4.12.1 Setting	57
4.12.2 Impact.....	57
4.12.3 Mitigation.....	57
4.12.4 Conclusion	57
4.13 Noise	57
4.13.1 Setting	58
4.13.2 Impact.....	58



4.13.3 Mitigation.....	60
4.13.4 Conclusion	60
4.14 Population and Housing.....	60
4.14.1 Setting	60
4.14.2 Impact.....	61
4.14.3 Mitigation.....	61
4.14.4 Conclusion	61
4.15 Public Services.....	61
4.15.1 Setting	62
4.15.2 Impact.....	62
4.15.3 Mitigation.....	63
4.15.4 Conclusion	63
4.16 Recreation	63
4.16.1 Setting	63
4.16.2 Impact.....	64
4.16.3 Mitigation.....	64
4.16.4 Conclusion	64
4.17 Transportation.....	64
4.17.1 Setting	65
4.17.2 Impact.....	66
4.17.3 Mitigation.....	67
4.17.4 Conclusion	67
4.18 Tribal Cultural Resources.....	67
4.18.1 Setting	68
4.18.2 Impact.....	68
4.18.3 Mitigation.....	68
4.18.4 Conclusion	68
4.19 Utility and Service Systems.....	70
4.19.1 Setting	70
4.19.2 Impact.....	71
4.19.3 Mitigation.....	71
4.19.4 Conclusion	71
4.20 Mandatory Findings of Significance.....	72
4.20.1 Impact.....	72
4.20.2 Mitigation.....	73
4.20.3 Conclusion	73

List of Tables



Table 4-1: Construction CalEEMod Emission Estimates	29
Table 4-2: Criteria and Toxic Air Pollutants.....	29
Table 4-3: Greenhouse Gas.....	29
Table 4-4: Criteria/Toxic Air Pollutants (1,800 Cow Lagoon Manure).....	30
Table 4-5: Operational CalEEMod Emission Estimates.....	31
Table 4-6: Greenhouse Gas.....	43
Table 4-7: Typical Construction Equipment Noise Levels	58

List of Figures

Figure 1-1: General Location of the Borges Dairy.....	10
Figure 1-2: Project Site Vicinity	12
Figure 1-3: Project Site Plan Layout.....	13
Figure 1-4: Dairy Digester Process Diagram	14
Figure 1-5: E. Brady Road Along Northern Boundary of the Project Site	15
Figure 4-1: E. Brady Road from West to East in Front of Borges Dairy.....	22
Figure 4-2: Access Road to Digester Project Area	22
Figure 4-3: View of Dairy from Southern Boundary	23
Figure 4-4: Eastern Manure Pond.....	49
Figure 4-5: Western Manure Pond.....	49
Figure 4-6: Manure Pit.....	50
Figure 4-7: Project Area Land Use Designations	55
Figure 4-8: E. Brady Road/Manteca Road Intersection	65

Appendices

Appendix A – Project Site Development Drawings
Appendix B – CALEEMOD Results
Appendix C - Electric Load Analysis P1-3 260318
Appendix D – Central California Information Center, Response to an Extended Records Search - Orland Power Solutions, 9/23/2025



Appendix E – Geotechnical Study
Appendix F – Borges Parcel Maps



1. Project Information

Project Title: The Orland Power Solutions Borges Dairy Digester Project

Use Permit Application: PA-2500075

Project Location: Assessor Parcels: APN 257-22-005 and 257-22-004, 8350 Brady Rd., Manteca, CA

General Plan Designation: A/G – General Agriculture

Zoning: AG-40 – General Agriculture with 40-acre parcels

Lead Agency

San Joaquin County Department of Community Development,
Planning Division
1810 E. Hazelton Ave.
Stockton, CA 95205
Contact: Stephanie Stowers
ssowers@sjgov.org

Property Owner's Name and Address

Borges Dairy Farm
Frank Borges
2830 Brady Road
Manteca, CA 95337

Project Sponsor's Name and Address

Orland Power Solutions, LLC
Jeff Nelson
14895 East 14th Street, Suite 345
San Leandro, CA 94578
jeffnelson.castlewood@gmail.com

Consultant

TSS Consultants:
Frederick Tornatore
3339 McKinley Village Way, Suite 200
Sacramento, CA 95816
fatoxic@tssconsultants.com

Patrick Nevis
514 Locust Street
Pacific Grove, CA 93950
PNevis121@icloud.com

Project Purpose: The purpose of this project is to construct and operate a commercial proof of concept anaerobic digestion facility by configuring two above-ground cow manure "digesters" that work in a "plug and flow" fashion. These digesters are intended to capture and contain methane (a.k.a biomethane) from the dairy cow manure currently stored in the regulatory compliant excrement "ponds" on the dairy property. The biomethane will then be shipped offsite in tube trailers from consumption by product off-takers.



Existing Site Conditions: The project is proposed for Frank Borges Dairy, an approximately 1500-head dairy farm that is located at 8350 E. Brady Road in Manteca, CA and has been in operation for over 60 years. The location of the proposed project on the dairy farm is midway between E. Brady Road (to the north) and Hutchinson Road (to the south). The dairy structures are located on two parcels: 257-22-005, 29.85 acres, and 257-22-004 with 48.95 acres; however, the project will only affect approximately 2.9 acres and be sited on 257-22-004.

Surrounding Uses and Conditions: The surrounding land uses are agricultural, with dairies, farmland, and orchards. These lands are considered prime farmland and lands of statewide importance. The land on which the Borges is located is designated as Confined Space Agriculture.

North:	Agricultural with scattered residences/City of Manteca
South:	Agricultural with scattered residences/Stanslaus River
East:	Agricultural with scattered residences/City of Ripon
West:	Agricultural/Dairy Facility/scattered residences/San Joaquin River

Site Plans and Structures: The proposed project is the construction of two commercial proof of concept anaerobic digesters (AD) within four-sided, open-top, above ground containment units located on the eastern side of the dairy. These two AD units will be located on parcel 257-22-004, with the manure feedstock coming from parcel 257-22-005. The footprint of the AD project is approximately 2.9 acres.

The two identical containment structures are intended to be 40 feet wide by 180 feet long comprising 7,200 square feet each. The structures will be 12.5 feet in height with a concrete base in which the AD consisting of a heavy mil rubber bladder will be situated. The containment structures will be created using off-the-shelf branded "Fox Blocks" that consist primarily of rebar and concrete that are commercially available and have been validated as structurally sound and watertight and provide R40 insulation factor. Combined with the internal bladder the concrete structures serve as a double liner in compliance with current containment regulations. In addition, there will be a third external bladder to be used as emergency methane gas containment in lieu of a combustion flare, which otherwise would have essentially burned the biogas and create associated negative environmental impact.

The AD system will be developed on an existing, approximately 2.9-acre engineered pad which will be used for construction and development purposes. There will also be associated biogas conditioning and treatment equipment to upgrade and "clean" the biogas to biomethane along with the AD systems.

Operations: Manure wastewater from the preexisting regulatory compliant lagoons and manure pit on the dairy property will be pumped approximately 100 yards into the digester bladders via a non-combustion based flush pump system and the manure wastewater will be heated by an electric boiler. The biogas output from the AD bladders will be upgraded into biomethane (a.k.a. Renewable Natural Gas – RNG) then compressed and loaded gas transport trucks with tube trailers for delivery to a natural gas pipeline receipt point or end-user(s).



In the event of some type of upset condition from the bladder, any released manure wastewater will be diverted from the secondary concrete containment structure directly back to the original manure containment ponds with the aid of an electricity driven pump. While the property will continue to be fully operated by the dairy owner/operator, the construction and operation of the digester facilities and project will be undertaken by Orland Power Solutions. There are no systems in this project that rely on the combustion of the biogas or biomethane, thus no combustion-related emissions.

Transportation and Circulation: The gas transport tanker trucks will transport from the dairy on E. Brady Road to the 2-lane (transitioning to the north into 4-lanes) main Manteca Road thoroughfare. It will then be driven approximately seven miles to the main CA-99 or less than two miles to the CA-120 highway for transport to an approved injection site or end-user customer(s). It is anticipated that there will be up to 12 truck trips per month when the project becomes fully operational. Each truck will contain 500 thousand cubic feet (MCF) per truck and tube trailer. These are Class 8 trucks on the order of the same weight as a standard large milk truck and trailer of raw milk produced each day at the Borges Dairy. Access to the digester project area will be from E. Brady Road on a 700-foot compacted and gravel access road.

Other Public Agencies Whose Approval May be Required (e.g., permits, financing approval or participation agreement)

San Joaquin County Building Department
 San Joaquin County Environmental Health
 San Joaquin Valley Air Pollution Control District
 State of California, Central Valley Regional Water Quality Control Board

1.1 Project Description

1.1.1 Overview

The purpose of this construction is to develop a commercial proof of concept project by configuring two above-ground cow manure "digesters" that work in a "plug and flow" fashion. They are intended to capture and contain methane from the dairy cow manure that currently and in the future resides in the existing regulatory compliant excrement "ponds" on the dairy property. The dairy digester site will be located on the easternmost parcel of (APN 257-22-004) of the Borges Dairy, which consists of approximately 49 acres. The western parcel of the dairy will only be impacted by the project for the creation of an approximately 100-yard pipeline from the manure pit to the digesters. Access to the site will be from E. Brady Road north of the dairy. The parcel is designated A/G-General Agriculture and zoned AG-40 – General Agriculture with 40-acre parcels in the San Joaquin County General Plan. This designation seeks to enhance the economic viability of the agriculture sector and encourage new support industries and operations. The agricultural zoning allows the development and operation of a dairy digester if a Conditional Use Authorization is approved by San Joaquin County.

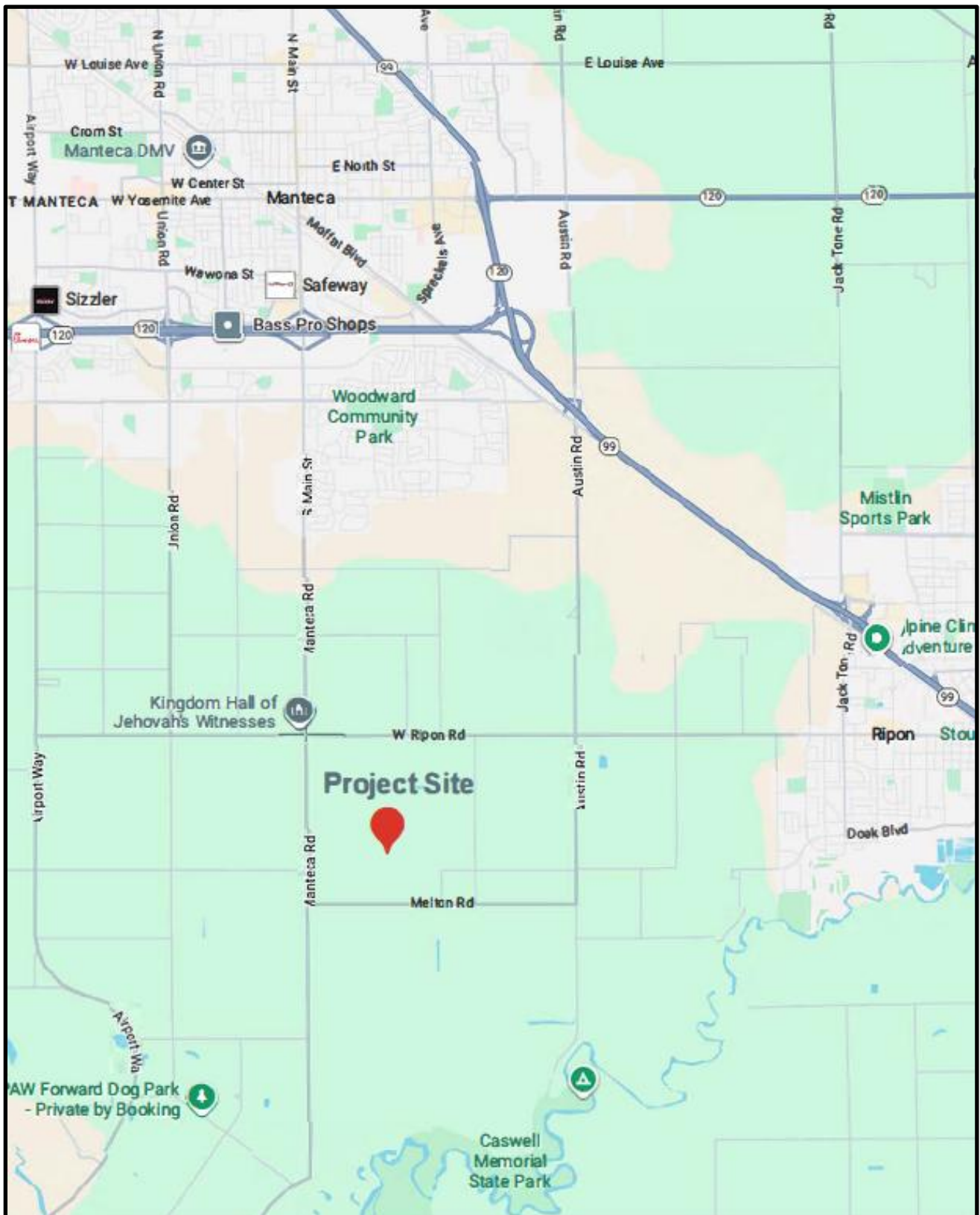


1.1.2 Location and Project Background

The proposed dairy digester will be located on the Borges Dairy at 8350 E. Brady Road in Manteca, CA. The site property is currently owned by Frank Borges and has been in operation for over 60 years. It will be located about 4 miles west of Ripon and 2.5 miles south of the Manteca city limits. It is adjacent to E. Brady Road, about a half mile east of the intersection with Manteca Road. Nearby roads and the approximate location of the facility are shown in Figure 1-1.



Figure 1-1: General Location of the Borges Dairy.





The surrounding uses are primarily agricultural, with dairies, farmland and orchards the primary uses. These lands are considered prime farmland and lands of Statewide Importance. There are a few residences nearby associated with agricultural operations. There is a small FM station located a few hundred yards east of the project site. (Figure 1-2, Project Site Vicinity).

The proposed project is the development and construction of two commercial prototypes above ground anaerobic digesters with 4-sided open, above ground air concrete container units. The two identical structures are intended to be 40 feet wide by 180 feet long thereby measuring 7,200 feet square each and will be 12.5 feet in height with a concrete base and contained within an engineered rubber bladder fitting the space thereby created. The structures will be created using off-the-shelf branded "Fox Blocks" that consist primarily of rebar and concrete that are commercially available and have been validated as structurally sound and watertight and provide R40 insulation factor. Combined with the internal bladder the concrete structures serve as a double liner in compliance with current containment regulations. In addition, there will be a third bladder to be used as methane gas containment in the event that access to the two main bladders is interrupted due to maintenance requirements, or some failure or blockage to the two main bladders. Construction and development of this AD system will occur on an existing approximately 2.9-acre compacted dirt pad. A complete set of project drawings is found in Appendix A.

Manure wastewater from the pre-existing manure pit will be pumped approximately 100 yards into the digester bladders via a non-combustion-based flush pump system. The biogas output from the bladders shall be "cleaned" into a biomethane product (CO₂ and H₂S and other contaminants removed from the gas stream) with non-combustion-based equipment and placed into bonded and insured gas transport trucks with tube trailers. While the property will continue to be fully operated by the dairy owner/operator, the construction and operation of the digester facilities and project will be undertaken by Orland Power Solutions.

The gas transport tanker trucks would transport the biogas from the dairy less than one-mile along E. Brady Road, which is a paved semi-private road to the 2-lane main Manteca Road thoroughfare to the west of the project site. E. Brady Road dead-ends to the east of the site at Kincaid Road. It will then be driven approximately seven miles to the main CA-99 or less than two miles to the CA-120 highway for transport to an approved injection site or end-user customers. It is anticipated that there will be up to 12 truck trips per month when the project becomes fully operational.

Figure 1-3 shows the overall project layout, comprising 2.9 acres east of the existing operations. The operation would include the extraction of 25,000 gallons per day of liquefied manure with the same amount of digestate returned to the manure pond. It is expected that the digester will produce 200 MCF (one thousand cubic feet) per day of biogas after H₂S (hydrogen sulfide) and CO₂ (carbon dioxide) are removed. Figure 1 - 4 displays the principal layout of the AD system which conforms to Figure 1 -3.



Figure 1-2: Project Site Vicinity





Figure 1-3: Project Site Plan Layout

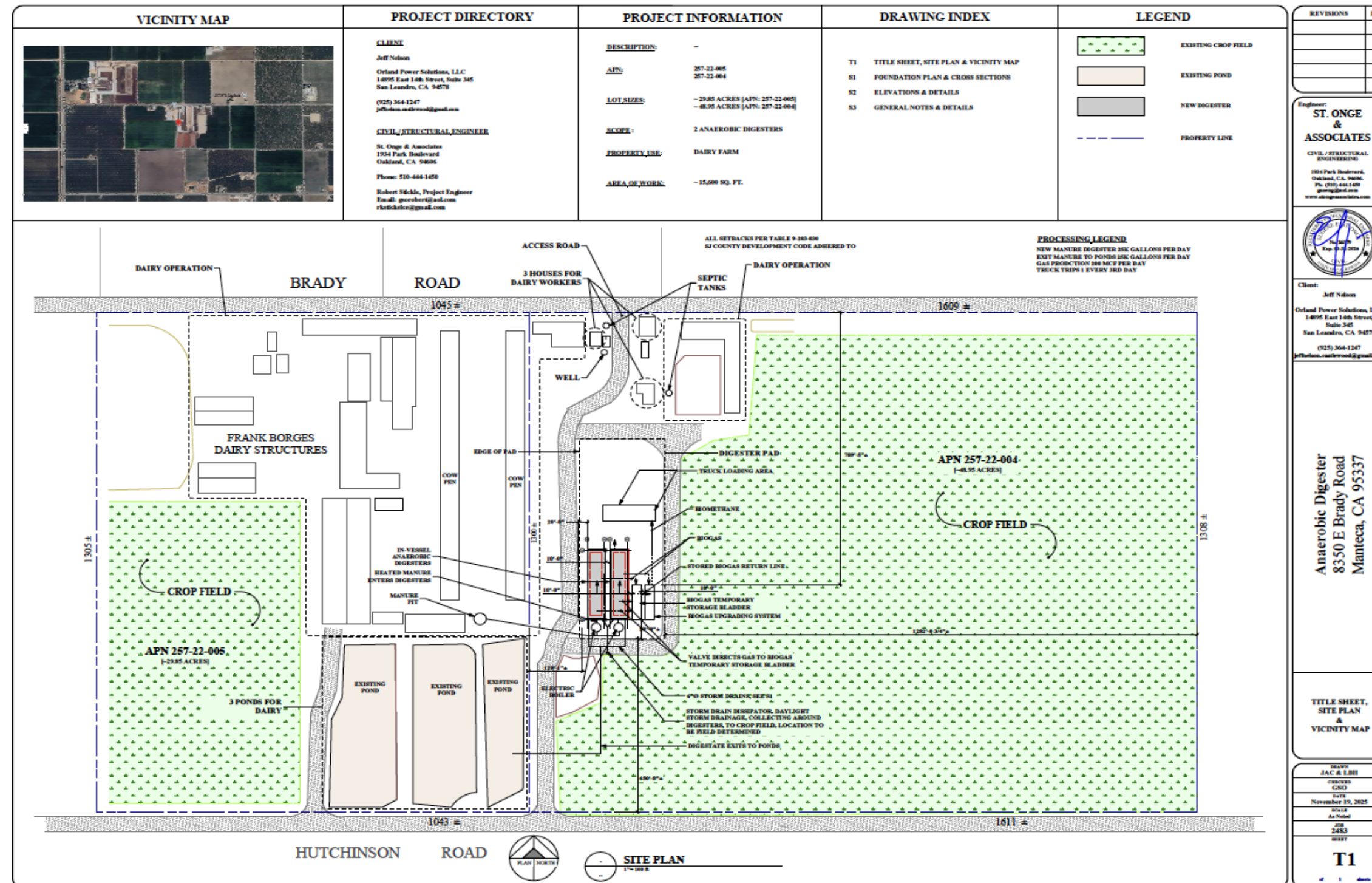
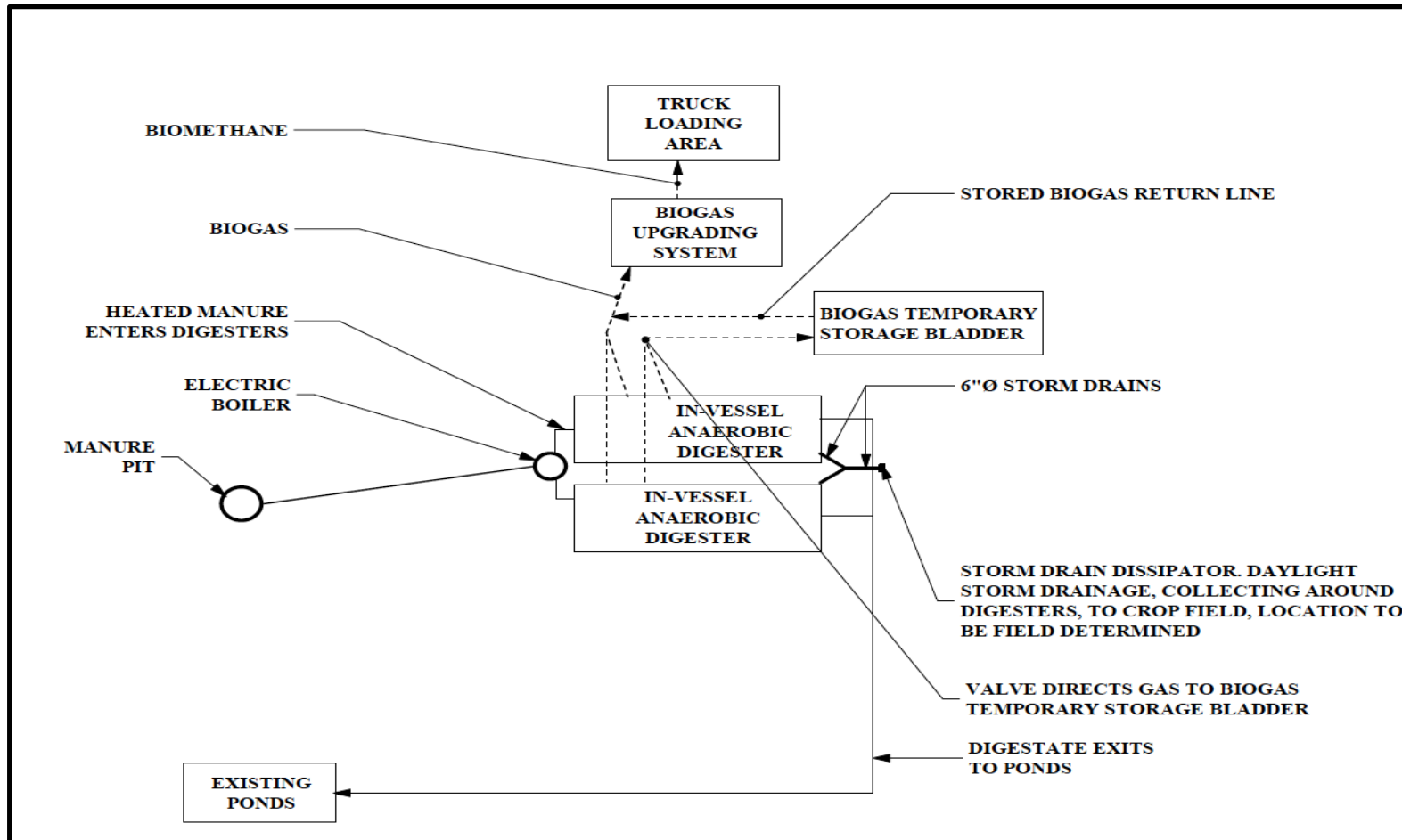




Figure 1-4: Dairy Digester Process Diagram





1.1.3 Site, Buildings, and Equipment

Site components in Figure 1-3 include the construction of the following:

- A 15,600 sq. ft. digester pad;
- Two in-vessel anaerobic digesters using dairy cow manure as feedstock;
- An electric boiler to heat up the manure slurry before entering the digesters;
- The manure pipeline into the digesters;
- A biogas to biomethane upgrading/cleaning & compression system;
- A temporary biogas storage bladder for emergency and non-routine upset conditions in a digester;
- A digestate (remains of the digested dairy cow manure) pipeline from the digesters to an existing manure pond;
- Valves directing the produced biomethane gas to processing trailer or biogas to temporary biogas storage bladder.

1.1.4 Roadways and Trucks

The project site is located on E. Brady Road, which intersects Manteca Road approximately 3,850 feet to the west, which provides north-south access. To the north 3.75 miles, Manteca Road connects to Highway 120, which links to I-5 and Highway 99 for access throughout California.

Figure 1-5: E. Brady Road Along Northern Boundary of the Project Site



For access eastward, Ripon Road—approximately a quarter mile north of the site—leads to the City of Ripon and then to Highway 99.



Southern access is found by using Airport Way south across the Stanislaus River. Access to the west is restricted by the San Joaquin River but can be achieved using Airport Way with access to Highway 120 to the north or highway 132 to the south.

Up to 12 truckloads per month (Monday through Friday) are expected to load with Renewable Natural Gas (RNG) and export to the surrounding area. The proposed project will require 1.5 employees, generating 3 round-trip employee commute trips each day.



2. Environmental Factors Potentially Affected

The environmental factors checked below would be potentially affected by this project, as indicated by the checklist and corresponding discussion on the following pages:

☒ Aesthetics	☐ Agriculture and Forestry Resources	☒ Air Quality
☒ Biological Resources	☐ Cultural Resources	☐ Energy
☒ Geology/Soils	☒ Greenhouse Gas Emissions	☒ Hazards & Hazardous Materials
☒ Hydrology/Water Quality	☐ Land Use/Planning	☐ Mineral Resources
☐ Noise	☐ Population/Housing	☐ Public Services
☐ Recreation	☒ Transportation/Traffic	☐ Tribal Cultural Resources
☐ Utilities/Service Systems	☐ Wildfire	☒ Mandatory Findings

2.1 Determination

(To be completed by the Lead Agency)

On the basis of this initial evaluation:

- (.) I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- (.) I find that although the proposed project could have a significant effect on the environment there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- (.) I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- (.) I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has



been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

- (.) I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

 Signature:
 Printed Name:
 Title:

Date:



3. Purpose of this Initial Study

This Initial Study has been prepared consistent with CEQA Guidelines Section 15063, to determine if the Conditional Use Authorization for the Orland Power Solutions Anaerobic Dairy Digester Project, as proposed, may have a significant effect upon the environment. Based upon the findings contained within this report, the Initial Study will be used in support of the preparation of a Mitigated Negative Declaration.

REFERENCES AND SOURCES FOR DETERMINING ENVIRONMENTAL IMPACTS:

Original source materials and maps on file in the Community Development Department including: All County general plans and community plans; assessor parcel books; various local and FEMA flood zone maps; service district maps; maps of geologic instability; maps and reports on endangered species as well as the San Joaquin County Habitat Conservation Plan; noise calculations; specific roadway plans; maps and/or records of archeological/historic resources; soil reports and maps; etc.

Many of these original source materials have been collected from other public agencies or from previously prepared CEQA and other technical studies. Additional standard sources which should be specifically cited below include on-site visits by staff (notes, date); staff knowledge or experience; and project information and any environmental studies submitted to the County as part of the project land use application. Copies of the project information and reports can be found by contacting the Community Development Department and are also found in the San Joaquin Online Permitting System (PA-2500075).



4. Evaluation of Environmental Impacts

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on project-specific screening analysis).
- 2) All answers must consider the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced.
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c) (3) (D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.



- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, development code). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used, or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance.

4.1 Aesthetics

Aesthetics	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c. In nonurbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
d. Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	☐	☐	☒	☐



4.1.1 Setting

San Joaquin County is set within the greater San Joaquin Valley, with the delta and large expanses of generally flat, agricultural lands and urban development framed by the foothills of the Diablo Range to the west and the foothills of the Sierra Nevada to the east. According to the County's General Plan 2035, scenic resources within the County include agricultural expanses, waterways, hilltops, and oak groves.

The project site is located in an agricultural area of intensive use, which includes field crops, orchards dairies and related ag businesses. The existing dairy is located on E. Brady Road, approximately 3 miles from the San Joaquin River and 2 miles north of the Stanislaus River and Caswell Memorial State Park. It's located on a 444.68-acre parcel, in a generally flat area, surrounded by agricultural uses and scattered residences. It is currently the site of the Borges Dairy which has been in continuous operation for greater than 60 years. This area of the project location is clear of vegetation and is used for parking equipment.

Figure 4-1: E. Brady Road from West to East in Front of Borges Dairy



Figure 4-2: Access Road to Digester Project Area





4.1.2 Impact

- a) The project would expand the developed area of the parcel with approximately 2.5-acres of structures and equipment. Although the viewshed that the project site is located within contains expansive views of agricultural lands, the project site is already developed as a parking lot, and the adjacent areas are used to support a dairy.

As the expansion is unlikely to further affect any local scenic resources as the height of the project structures will not exceed that of the surrounding buildings and equipment. Therefore, the project would have a less-than-significant impact associated with scenic vistas.

Figure 4-3: View of Dairy from Southern Boundary



- b) There are two officially designated state scenic highways in San Joaquin County: I-580 and I-5 (County of San Joaquin 2035 General Plan). I-580 is located approximately 11 miles southwest of the project site. I-5 is located approximately 7 miles west of the project site. Due to distance, the project site is not visible from I-580 or I-5.

In addition, the County has designated 26 roadways within the County as local scenic routes (County of San Joaquin 2035 General Plan). The nearest locally designated scenic route is Austin Road, located approximately 2.5 miles east of the project site, which, due to distance, does not have a view of the project site. Therefore, the project would have a less than-significant impact associated with scenic resources within a state- or locally designated scenic highway.

- c) The property parcels on which the footprint of the project will be located are approximately 79 acres in size and are located in a topographically flat area surrounded by agricultural uses and scattered residences. The existing dairy is developed on the south side of Brady Road on about an approximately 23-acre portion of the parcels. The 2.5-acre project is low to the ground and the



structures are consistent with other structures in the vicinity. Therefore, it will not substantially degrade the existing visual character or quality of the site and its surroundings.

- d) The existing lighting and glare conditions in the project area are typical of a rural agricultural area. Any new lighting would consist of downward-facing, photo-sensor security lighting at all locations that are serviced at night. The project's structures will not have any surfaces that will emit glare, e.g., shiny metal or glass. Therefore, the project is expected to have a less than significant impact from new sources of light or glare on day or nighttime views in the area.

4.1.3 Mitigation

Mitigation proposed by Orland is not necessary.

4.1.4 Conclusion

Based on the impact discussion above, potential impacts associated with aesthetics would be less than significant; therefore, no mitigation is required.

4.2 Agriculture and Forest Resources

Agriculture and Forest Resources Less Than Significant With Mitigation Incorporated	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than- Significant Impact	No Impact
--	--------------------------------------	---	-------------------------------------	--------------

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

Would the project:

- a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

☐☐☐☒



Agriculture and Forest Resources Less Than Significant With Mitigation Incorporated	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than- Significant Impact	No Impact
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒
d. Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

4.2.1 Setting

The project site is located in an agricultural area of San Joaquin County. The project site is entirely owned by Frank Borges.

The site and accompanying parcels are used for a dairy and supporting crops. The surrounding area includes orchards, row crops and other dairies (See Figure 1-4: Project Site Vicinity). The portions of the project parcel utilized by the dairy and planned for the digester and biogas facility is designated as Confined Space Agriculture on maps provided by the California Department of Conservation's Farmland Mapping and Monitoring Program.

The project site is zoned AG-40 (General Agriculture, 40 acre minimum). San Joaquin County classifies a digester and biogas facility as Agricultural Waste and Utility Services - Major uses. The parcels are under Williamson Act contract.

There are no forest resources or zones for forestlands or timberland, as defined by Public Resources Code and Government Code, located on or near the project site.

4.2.2 Impact

- The project will take advantage of an existing, gravel and soil packed parking lot so it will not have an impact on the conversion of Prime Farmland, Unique Farmland, or Farmland of State Importance to non-agricultural use.
- Both a digester and biogas facility may be conditionally permitted in the AG-40 zone with an approved Site Approval application, therefore, the project will not conflict with existing zoning. The project would result in no impact on Williamson Act contracts or on existing agricultural uses.



The parcels are currently under Williamson Act contract and are subject to the provisions of the contract which restrict development to uses that are compatible with the Williamson Act. Pursuant to San Joaquin County Development Title Series 700, Chapter 9-702.060(b)(1)(R) – Renewable Energy, the project use is compatible under a Williamson Act contract. Therefore, the project will not conflict with existing zones or the Williamson contracts on the project parcels.

- c) There are no forest resources or zoning for forestlands or timberland, as defined by Public Resources Code and Government Code, located on or near the project site, therefore, the project will have no impact on corresponding zoning or conversion of such land.
- d) As there are no forest resources or zones for forest lands or timberland, the project will have no impact on forestland or timberland zoning or conversion of such land.
- e) The proposed project, a digester and biogas facility, does not conflict with any existing uses as the zoning and General Plan designations will remain the same. The expansion will not interfere with any agricultural activity on the parcel as the project site is not planted in crops. Furthermore, it has been previously determined that the uses are conditionally permitted uses in the AG-40 (General Agriculture, 40 acre minimum) zone with a conditionally approved Site Approval application. Therefore, the project would have no impact on farmland and forest land conversion.

4.2.3 Mitigation

Mitigation proposed by Orland is not necessary.

4.2.4 Conclusion

Based on the impact discussion above, the proposed project would have no impact on agricultural or forest resources; therefore, no mitigation is required.

4.3 Air Quality

Air Quality	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:				
a. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐



b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐
c. Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
d. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐

4.3.1 Setting

The project site is located within the San Joaquin Valley Air Basin which lies within the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD). The SJVAPCD is the local agency established by the State to regulate air quality sources and minimize air pollution.

The proposed project is a digester and biomass facility (Renewable Natural Gas - RNG) intended to reduce the greenhouse gases produced by the existing dairy.

District Rules and Regulations aim to minimize a project's effect on air quality by ensuring compliance with regulatory standards. SJVAPCD Rules 2010 and 2201 address emissions from stationary sources, such as buildings or facilities, that release pollutants either directly or as fugitive emissions.

Existing dairy operations have four air quality permits:

Permit N-8391-2-0 – Cow housing not to exceed 1800 mature cows,

Permit N-8392-4-0 – Solid manure handling,

Permit N-8391-5-0 – Feed storage and handling,

Permit N-8391-6-0 – 225 BHP diesel emergency standby engine powering an electrical generator.

The project site is an existing dairy with lagoons that potentially produce odor from manure.

4.3.1.1 Emissions

Emission Estimation Methodology. Criteria pollutant and precursor emissions, and GHG emissions for the project construction activities and long-term operation were calculated using the California Emissions Estimator Model (CalEEMod), Version 2022.1.1.30. CalEEMod is a Statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant emissions associated with both construction and operations from a variety of land use projects. The model was developed for the California Air Pollution Control Officers Association (CAPCOA) in collaboration with the California air districts.

CalEEMod allows for the use of default data (e.g., emission factors, trip lengths, meteorology, source inventory) provided by the various California air districts to account for local requirements and conditions, and/or user-defined inputs. The model calculates emissions of criteria pollutants, ozone



precursors, and GHGs, including PM10, PM2.5, ROGs, NOx, and CO2e. The calculation methodology and input data used in CalEEMod can be found in the CalEEMod User's Guide Appendices A, C, and D (CAPCOA 2022). The input data and operation emission estimates for the proposed project are discussed below. The full compendium of the CALEEMOD results is found in Appendix B.

Construction. The project was referred to SJVAPCD by the Planning Division for review on September 10, 2025. The SJVAPCD issued a preliminary consultation response dated October 8, 2025. The construction emission estimates assume the following.

- Project is to construct two concrete pads at an existing dairy to construct two digester structures on an existing site.
- The digester consists of a structure enclosed on 4 sides with concrete with a membrane liner to contain the contents.
- Construction pad is existing and new construction is the pouring of the concrete digesters. No demolition, grading, or site preparation is required.
- Construction offroad equipment mix reflects the minimal construction required for the project.
- Assumed paving 700 feet by 24 feet onsite access road plus 1/2 acre of tube truck/worker parking.
- Electric use during construction was assumed at 10,000 kilowatts-hours/year.

Construction of the project assumes that 3 dairy waste pipelines, totaling 3000 linear feet, will be installed. Two of the pipelines (dairy feedstock and spent digester liquids) will be installed at a depth of 4 feet and the remaining pipeline (stormwater) at a depth of 1.5 feet. Total expected excavated material is approximately 330 cubic yards. Fill imports are estimated at 160 cubic yards to support pipeline installation.

The two identical digester containment structures, approximately 40 feet wide by 180 feet long (each) comprising 7,200 square feet each. The structures will be 12.5 feet in height with a concrete base in which will be of a heavy mil rubber bladder. The containment structures will be created using off-the-shelf branded "Fox Blocks" that consist primarily of rebar and concrete with a R40 insulation factor. Combined with the internal bladder the concrete structures serve as a double liner. In addition, there will be a third external bladder to be used as emergency methane gas containment in lieu of a combustion flare.

The District suggests that the San Joaquin County consider including a recommendation in the project to use clean off-road construction equipment, such as the latest tier equipment where feasible, in order to further reduce air quality impacts from diesel exhaust emissions. Given the minimal construction emissions, the project proponent is not proposing to implement the use of clean off-road construction equipment with the latest tier equipment where feasible.



Table 4-1 presents the project's construction air emissions are not expected to exceed the District's significance thresholds.

Table 4-1: Construction CalEEMod Emission Estimates

Pollutant	Maximum Controlled Annual Emissions (TPY)	SJVAPCD CEQA Thresholds (Tons/Year)	Exceeds SJVAPCD Threshold?
VOC	<0.1	10	No
NOx	0.3	10	No
CO	0.4	100	No
SOx	<0.1	27	No
PM10	<0.1	15	No
PM2.5	<0.1	15	No
CO2e (Metric Tons/Year)	67	--	N/A

Operations. The project will need to conform to the requirements of Order No. R5-2010-0130 Concerning Dairies with Manure Anaerobic Digester or Co-digester Facilities. The SJVAPCD found that project-specific pollutant emissions from both construction and operation are not anticipated to surpass 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 10 microns or less in size (PM10), or 15 tons per year of particulate matter 2.5 microns or less in size (PM2.5).

Based on typical dairy farm emissions, the Project would be expected to emit criteria/TAC contaminants in the form of Hydrogen Sulfide (H₂S), ammonia, and Nitrous Oxide (N₂O). Greenhouse gases (GHG) include Methane, Carbon Dioxide, and N₂O. Tables 4-2 and 4-3 present list of the criteria, TAC, and GHG sources/process, typical range, and environmental concerns.

Table 4-2: Criteria and Toxic Air Pollutants

Pollutant	Source Process	Typical Range	Environmental Concern
Ammonia (NH ₃)	Volatilization of ammonium in lagoon liquid and crust	2 to 10 kg/NH ₃ per year	Contributes to PM _{2.5} formation and odor
Hydrogen Sulfide	Sulfate reduction under anaerobic conditions	0.01 to 2 g/M ₂ /yr	Odorous, toxic at high concentrations

Table 4-3: Greenhouse Gas



Gas	Typical Concentration Range	Primary Formation Mechanism	Notes
Methane (CH ₄)	100-300 g/M ²	Produced by anaerobic methanogenic bacteria degrading volatile solids	Accounts for most GHG impact; varies with temperature, lagoon depth, and organic loading
Carbon Dioxide (CO ₂)	Minor (compared to CH ₄)	End product of aerobic and anaerobic decomposition	Usually not counted as it is biogenic
Nitrous Oxide	<0.05/kg/cow-yr	Nitrification and denitrification in lagoon edges or crusts	Low, but potent (298 times CO ₂)

Due to the subjective nature of odor impacts, the number of variables that can influence the potential for an odor impact, and the variety of odor sources, there are no quantitative or formulaic methodologies to determine the presence of a significant odor impact. Rather, the APCD has identified some common types of facilities that have been known to produce odors, which includes facilities like wastewater treatment operations, sanitary landfills, composting facilities, and transfer stations. By switching to a contained digester, the biological activity causing the smell will be managed and even reduced, so the project should not significantly increase odor emissions.

4.3.1.2 Operational Dairy Emissions

Based on the expected criteria and TAC emission from dairy operations, Table 4-4 provides an estimate of the current and future maximum daily and annual criteria and TAC emissions.

Table 4-4: Criteria/Toxic Air Pollutants (1,800 Cow Lagoon Manure)

Pollutant	Emission Factor (lbs/cow-yr)	Herd Size	Lbs/day Uncontrolled	Tons Per Year Uncontrolled	Lbs/day Controlled	Tons Per Year Controlled
Ammonia (NH ₃)	22	1800	108.7	19.8	108.7	19.8
Hydrogen Sulfide (H ₂ S)	0.66	1800	3.26	0.6	3.26	0.6
VOC as ROG	0.55	1800	2.72	0.5	2.72	0.5



4.3.1.3 Operational CalEEMod Assumptions

The primary source of operational air emissions are roadway vehicle emissions, water and electrical use. The inputs for the CalEEMod model assumed up to 2 full-time equivalent employees onsite and approximately 3 trucks to remove produced gas from the project on a daily basis (7 days per week). Assuming vendor deliveries, a total of 10 vehicle trips per day were assumed for the CalEEMod analysis. Water use was estimated at zero as the project does not require water to operate and any liquid waste products are returned to the adjacent dairy. Potable and sanitary water use will be provided by the adjacent, existing dairy facility and is not expected to increase materially. Electrical use was estimated by a consultant as is assumed at 702,397 kilowatt-hours per year (see Appendix C- Electric Load Analysis Part 3 260318). Table 4-5 presents the CalEEMod maximum daily and annual emissions.

Table 4-5: Operational CalEEMod Emission Estimates

Pollutant	Maximum Controlled Annual Emissions (TPY)	SJVAPCD CEQA Thresholds (Tons/Year)	Exceeds SJVAMQD Threshold?
VOC	0.08	10	No
Nox	0.004	10	No
CO	0.06	100	No
SOx	<0.1	27	No
PM10	<0.1	15	No
PM2.5	<0.1	15	No
CO2e (Metric Tons/Year)	164.4	--	N/A

Total project air emissions are presented in Table 4-6 which include emissions from Tables 4-4 and 4-5 above.

Table 4-6: Total Controlled Operational Emission Estimates

Pollutant	Maximum Controlled Annual Emissions (TPY)	SJVAPCD CEQA Thresholds (Tons/Year)	Exceeds SJVAMQD Threshold?
VOC	0.58	10	No
NOx	0.005	10	No
CO	0.06	100	No
SOx	0.005	27	No
PM10	0.005	15	No
PM2.5	0.005	15	No
CO2e	49.5	--	N/A
H2S	0.6	--	N/A
Ammonia	19.8	--	N/A



4.3.2 Impacts

Does the project:

- a) Conflict with or obstruct implementation of the applicable air quality plan - The project would generate relatively small quantities of criteria pollutants compared to SJVAPCD significance thresholds. As shown in Table 4-6, emissions of VOC, NO_x, PM₁₀, and PM_{2.5} are well below the District thresholds used to evaluate regional air quality impacts. Because the project would comply with SJVAPCD permitting requirements and would not exceed established emission thresholds, it would not conflict with or obstruct implementation of the regional air quality management plan. This renders the project having a less than significant impact.
- b) Result in a cumulatively considerable net increase of any criteria pollutant for which the region is non-attainment - The San Joaquin Valley Air Basin is designated non-attainment for ozone and particulate matter. However, SJVAPCD thresholds are designed to ensure that projects emitting pollutants below these levels would not make a cumulatively considerable contribution to regional air pollution.

Total project emissions are substantially below these thresholds, as shown in Table 4-5. Consequently, the project would not result in a cumulatively considerable net increase in criteria pollutants rendering the project as having a less than significant impact.

- c) Expose sensitive receptors to substantial pollutant concentrations - Air emissions associated with the project primarily consist of ammonia, hydrogen sulfide, and volatile organic compounds generated during manure management. These emissions are typical of dairy operations and are not expected to exceed regulatory thresholds.

In addition, the project proposes a contained anaerobic digester system that manages biological decomposition processes in a controlled environment. This approach reduces uncontrolled emissions that would otherwise occur from open lagoon conditions.

Vehicle emissions associated with the project are minimal and limited to approximately ten daily vehicle trips. Because emissions are low and below regulatory thresholds, the project would not expose sensitive receptors to substantial pollutant concentrations.

Impacts are to be considered less than significant.

- d) Result in other emissions (such as odors) adversely affecting a substantial number of people - Odor emissions from dairy operations typically result from anaerobic decomposition of manure that generates compounds such as ammonia and hydrogen sulfide. However, the proposed project incorporates a contained anaerobic digester that manages and controls the biological processes responsible for odor formation.



Because the digestion process would be enclosed and controlled, odor emissions are expected to be reduced relative to existing lagoon conditions. Accordingly, the project would not generate odors affecting a substantial number of people. Therefore, no significant impact will occur.

4.3.3 Mitigation

Construction. Mitigation proposed by Orland is not necessary.

Fugitive dust control plans are required by the SJVAPCD (Rule 8021) for certain construction projects. However, the Orland project does not meet the non-residential project size to require a Fugitive Dust Plan.

Operations. Mitigation proposed by Orland is not necessary.

Operational mitigation includes complying with applicable state/federal mobile source, refrigerant, water procurement, and architectural coating regulations.

By switching to a contained, in-vessel digester, the biological activity causing the smell will be managed and even reduced, so the project should not significantly increase odor emissions.

4.3.4 Conclusion

Based on the impact discussion above, potential impacts to air quality resources associated with the proposed project would be less than significant: therefore, no further mitigation is required.

4.4 Biological Resources

Biological Resources	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☒	☐
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☒	☐



Biological Resources	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐

4.4.1 Setting

The project site is a gravel-soil packed parking lot for agricultural equipment. Consultations with the California Department of Fish and Wildlife Natural Diversity Database lists *Anthicus sacramento* (Sacramento anthicid beetle), *Buteo Swainsoni* (Swainson's hawk), Great Valley Cottonwood, *Sylvagus bachmani riparius* (riparian brush rabbit), *Eryngium racemosum* (Delta button-celery), *Coccyzus americanus occidentalis* (western yellow-billed cuckoo), *Neotoma fuscipes riparia* (San Joaquin Valley woodrat) and *cirsium crassicaule* (slough thistle) as rare, endangered, or threatened species habitat located near the site for the proposed project.

Referrals have been sent to the San Joaquin Council of Governments (SJCOG), the agency responsible for verifying the correct implementation of the *San Joaquin County Multi-Species Habitat Conservation and Open Space Plan* (SJMSCP), which provides compensation for the conversion of Open Space to non-Open Space uses which affect the plant, fish and wildlife species covered by the Plan.

A referral was sent to SJCOG and SJCOG responded in letter dated September 11, 2025, that the project is subject to the SJMSCP. The applicant has verbally confirmed that the project will participate in SJMSCP if accepted. The SJCOG is submitting a staff report to the Habitat Technical Advisory Committee for their consideration on November 12, 2025. If accepted it will move to the SJCOG Board of Directors for acceptance into the Plan in early December. With the applicant's participation, the proposed project should be considered consistent with the SJMSCP and any impacts to biological resources resulting from the proposed project will be reduced to a level of less-than-significant.



No jurisdictional surface water resources, wetlands, sensitive habitats, or designated critical habitat are located within or adjacent to the project site. The nearest surface water resource is the Stanislaus River, located approximately 2 miles south of the project site.

4.4.2 Impact

- a) Since the project site has been used as a parking lot for agricultural equipment, the project will not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.
- b) The project site and its vicinity are entirely composed of ongoing dairy and feed crop activities. There is no riparian habitat located on the project site. The nearest riparian habitat, the Stanislaus River Riparian corridor, is located approximately 2 miles south of the project site. Therefore, the project will not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.
- c) There are no jurisdictional wetlands located on the project site; the nearest jurisdictional water resource is located approximately 2 miles south of the project site. Therefore, there would be no impact and the project will not have a substantial adverse effect on state or federally protected wetlands.
- d) The project will not include the removal of any trees or blockage or impingement of riparian habitat. Consequently, the implementation of the proposed project would not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. Therefore, no impact would occur as a result of the proposed project.

In addition, the project's impact on resident or migratory wildlife corridors will be reduced to less than significant because the project applicant will participate in the San Joaquin Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Implementation of the SJMSCP is expected to reduce impacts to biological resources resulting from the proposed project to a level of less-than-significant.

- e) The project's conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance are expected to be less than significant because the project applicant will participate in the San Joaquin Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Implementation of the SJMSCP is expected to reduce impacts to biological resources resulting from the proposed project to a level of less-than-significant.
- f) The project's impact on the provisions of an adopted Habitat Conservation Plan, natural Community Conservation Plan, or other approved local, regional, or state habitat conservation



plan, are expected to be less than significant because the project applicant will participate in the San Joaquin Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Implementation of the SJMSCP is expected to reduce impacts to biological resources resulting from the proposed project to a level of less-than-significant.

4.4.3 Mitigation

The applicant has agreed to participate in the County's *San Joaquin County Multi-Species Habitat Conservation and Open Space Plan*. Pursuant to the Final EIR/EIS for SJMSCP, dated November 15, 2000, and certified by SJCOG on December 7, 2000, implementation of the SJMSCP is expected to reduce impacts to biological resources resulting from the proposed project to a level of less-than-significant. As part of this approved participation SJCOG will conduct a pre-construction biology survey for the digester project.

4.4.4 Conclusion

Based on the impact discussion above, potential impacts to biological resources associated with the proposed project would be less than significant: therefore, no further mitigation is required.

4.5 Cultural Resources

Cultural Resources	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Cause a substantial adverse change in the significance of a historical resource pursuant to § 15064.5?	☐	☐	☐	☒
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	☐	☐	☒	☐
c. Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐



4.5.1 Setting

The proposed project is a digester and biogas facility at an existing dairy. All development is proposed within the existing disturbed areas on site, which have been utilized as a dairy since before 1965. It was purchased in 1972 by Frank Borges.

The Central California Information Center replied to a TSS Consultant record search request for any information of a historical or cultural value at the project site. (Appendix C – Central California Information Center Response to an Extended Records Search - Orland Power Solutions, 9/23/2025). No historic resources have been identified on the project site. Historic resources (buildings more than 45 years old) are in the immediate vicinity. There are two buildings that are 72 years old (or older).

The project site is not associated with any significant event or trend in American history, nor has it been directly associated with persons significant in our past. Lastly, the project site is not expected to yield important information about prehistory or history.

In the event archeological resources are unearthed or discovered during any construction activities, California state law requires that there shall be no further disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county has determined manner and cause of death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation (California Health and Safety Code - Section 7050.5). At the time of development, if human burials are found to be of Native American origin, the developer shall follow the procedures pursuant to Title 14, Division 6, Chapter 3, Article 5, Section 15064.5(e), of the California State Code of Regulations.

4.5.2 Impact

- a) All development is proposed within existing disturbed areas on site, which have been utilized as a dairy since before 1965. Structures on the property have been in use since then, with some built since purchase. The project will not affect any of the structures older than 45 years. The project site is not associated with any significant event or trend in American history, nor has it been directly associated with persons significant in our past. The project site is not expected to yield important information about prehistory or history; therefore, Implementation of the proposed project would not result in impacts to a historical resource, if present. Therefore, no impact would occur.
- b) Construction would require minor ground disturbance for the placement of the new concrete pad and digester structures. The project will require 3 sets of underground piping: (1) Manure pit to heater will carry fresh manure to heater via a 6-inch pipe. The trench will be 12 inches wide 4 foot deep and 310 feet long; (2) Digester to pond - this will carry spent digestate to the 3 ponds using an 8-inch diameter pipe buried in a trench 3 to 4 foot deep and 14 inches wide and 70 feet long; (3) Storm drain piping - This will go from inside and around the digesters and carry the storm water about 125 feet to the farming field adjacent to the pad. This will be 6-inch pipe encased in drain rock buried 18 inches deep.

No known archaeological resources have been identified on the project site or in the immediate vicinity. Therefore, archaeological resources are not expected to be present with the proposed area of disturbance associated with the proposed project.

- c) The project will not disturb any human remains, including those interred outside of formal cemeteries. If remains are found, the process described in 4.5.1 will be implemented.



4.5.3 Mitigation

Mitigation proposed by Orland is not necessary.

4.5.4 Conclusion

No impacts on historical resources would occur and the potential for impacts on archaeological and paleontological resources is considered less than significant.

4.6 Energy

Energy	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☒
b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☒

4.6.1 Setting

The proposed project involves a manure-only digester and biogas facility at an existing dairy, and on an existing engineered pad.. The facility will process manure, and capture gas emissions. The final product of the digester project is Renewable Natural Gas (RNG), which will be transported offsite for use in other applications. This project is intended to produce clean biomethane gas which will assist in the pursuit of achieving the State's renewable energy goals.

4.6.2 Impact

- a - b) The California Energy Code (California Code of Regulations, Title 24, Part 6 – Building Energy Efficiency Standards for Residential and Nonresidential Buildings) was established by the California Building Standards Commission pursuant to a legislative directive to reduce energy consumption statewide. The purpose of the code is to support state energy policy, promote development of renewable energy resources, and ensure preparedness for energy emergencies. These standards are periodically updated by the California Energy Commission. The code sets forth energy conservation requirements applicable to most buildings across California. These provisions will apply to the proposed project and will be triggered during the building permit application process, thereby ensuring that environmental impacts associated with wasteful, inefficient, or unnecessary energy use remain



less than significant and that no conflicts arise with state or local energy efficiency or renewable energy plans.

4.6.3 Mitigation

Mitigation proposed by Orland is not necessary.

4.6.4 Conclusion

Based on the impact discussion above, impacts to energy resources would be positive.

4.7 Geology and Soils

Geology and Soils	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map, issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☒	☐
ii. Strong seismic ground shaking?	☐	☐	☒	☐
iii. Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv. Landslides?	☐	☐	☒	☐
b. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐



Geology and Soils	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☒	☐
f. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐

4.7.1 Setting

- a) According to the California Department of Conservation's Geological Survey for its Earthquake Hazards Zone Application online map (EQ Zapp)¹, the project site is not within an earthquake fault zone. However, like other areas in seismically active Northern California, it may experience strong ground shaking during an earthquake, but no more than the surrounding region. The project will be designed and constructed in compliance with the California Building Code and San Joaquin County Ordinance Section (8-1000) standards for seismic safety. The Central Valley Regional Water Quality Control Board (CVRWQCB) requires the preparation of a seismic study.
- b) The project applicant must file a Notice of Intent (NOI) with the Central Valley Regional Water Quality Control Board (CVRWQCB) and comply with the General Permit for Storm Water Discharges from Construction Activities. This includes developing a Storm Water Pollution Prevention Plan (SWPPP) and using best management practices to prevent erosion and reduce sediment and pollutants at the construction site.
- c) A soils report is required for grading and foundations, with its recommendations incorporated into construction plans as mandated by the California Building Code (CBC). A geotechnical study was undertaken for the project site in the Fall 2024 (see Appendix D for the full report). The purpose of the report was to obtain information regarding the subsurface conditions of a prepared building pad intended for the construction of a confining structure for the digester bladder for methane gas generation. The CVRWQCB requires an Operations, Maintenance and Monitoring (OMM) Plan for the bladders. General soil and foundation engineering design and recommendations were provided based on the physical characteristics

¹ <https://www.conservation.ca.gov/cgs/geohazards/eq-zapp>



of the subsurface materials and the geotechnical limitations created by the site's surface features. The geotechnical report is included in Appendix D.

- d) The Soil Survey of San Joaquin County classifies the project site soil as expansive, meaning it is prone to shrink and swell.
- e) The project site has 3 ponds to handle the manure and effluent from the dairy cow pens which under the proposed project would feedstock the AD system for conversion to biogas, with the digestate being discharged to the ponds. Also, the project would require the use of existing and permitted septic systems for domestic wastewater disposal.
- f) No known paleontological resources have been identified on the project site or in the immediate vicinity. The project will have no or only minor impact on the surface or subsurface geology.

4.7.2 Impact

- a) The project applicant should complete a Seismic Analysis for the design earthquake that will need to be included in the Design Report submitted to the CVRWQCB. A soils report is also required, and all recommendations will be incorporated into the construction plans, including an Operations, Maintenance and Monitoring (OMM) Plan for the digester containment structures. Therefore, the risk of leakage from seismic ground shaking or potential liquefaction is expected to be less than significant.

The project site is topographically flat with no slopes, so landslide risks are not present.

- b) The Construction General Permit (CGP) requires the development of a Storm Water Pollution Prevention Plan (SWPPP), which mandates the implementation of both temporary and post-construction best management practices. These measures are designed to prevent erosion and minimize sediment and pollutant discharge from the construction site. As a result, impacts related to soil erosion are anticipated to be less than significant.
- c) Following these CBC guidelines will reduce risks from lateral spreading, subsidence, or liquefaction and help maintain structural integrity during seismic events. Thus, unstable geologic unit impacts are expected to be less than significant.
- d) Engineering specifications required by the CBC for expansive soil will minimize damage risk and ensure project buildings are not significantly affected.
- e) The site can accommodate cow pen effluent, with digestate returned to the ponds after methane is extracted from manure. The number of milk cows will remain unchanged, so the project will have no additional impact.



- f) No known paleontological resources have been identified on the project site or in the immediate vicinity. Therefore, paleontological resources are not expected to be present with the proposed area of disturbance associated with the proposed project.

4.7.3 Mitigation

Additional mitigation proposed by Orland is not necessary.

4.7.4 Conclusion

Based on the impact discussion above, potential impacts associated with the project would be less than significant.

4.8 Greenhouse Gas Emissions

Greenhouse Gas Emissions	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b. Conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

4.8.1 Setting

Global Warming is a public health and environmental concern around the world. As global concentrations of atmospheric greenhouse gases increase, global temperatures increase, weather extremes increase, and air pollution concentrations increase. The predominant opinion within the scientific community is that global warming is currently occurring, and that it is being caused and/or accelerated by human activities, primarily the generation of "greenhouse gases" (GHG). Neither the SJVAPCD nor San Joaquin County sets project-level thresholds for construction-related greenhouse gas (GHG) emissions. Construction GHG emissions are released once, and as a result, are not generally considered to have a substantial impact on global climate change. Therefore, this analysis focuses on long-term operational GHG emissions.



However, the SJVAPCD has adopted the Guidance for Valley Land Use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA and the District Policy Addressing GHG Emission Impacts for Stationary Source Projects Under CEQA When Serving as the Lead Agency. The guidance and policy rely on the use of performance-based standards, otherwise known as Best Performance Standards (BPS) to assess significance of project specific greenhouse gas emissions on global climate change during the environmental review process, as required by CEQA.

The proposed project will comply with SJVAPCD regulations, including guidance and policies that require performance-based standards (Best Performance Standards, BPS) for assessing greenhouse gas (GHG) impacts during environmental review under CEQA. Projects must demonstrate a 29% reduction in GHG emissions compared to Business As Usual (BAU), defined as emissions from 2002–2004.

4.8.2 Impact

- a) Under CEQA, an individual project's greenhouse gas emissions will generally not result in direct significant impacts. This is because the climate change issue is global in nature. However, an individual project could be found to contribute to a potentially significant cumulative impact. Projects that have greenhouse gas emissions above the noted thresholds may be considered cumulatively considerable and require mitigation.
- b) Based a study of dairy farm emissions, the Project would be expected to emit Greenhouse gases (GHG) including Methane, Carbon Dioxide, and N₂O. Tables R presents of list of GHG sources/process, typical range, and environmental concerns.

Table 4-6: Greenhouse Gas

Gas	Typical Concentration Range	Primary Formation Mechanism	Notes
Methane (CH ₄)	100-300 g/M ²	Produced by anaerobic methanogenic bacteria degrading volatile solids	Accounts for most GHG impact; varies with temperature, lagoon depth, and organic loading
Carbon Dioxide (CO ₂)	Minor (compared to CH ₄)	End product of aerobic and anaerobic decomposition	Usually not counted as it is biogenic
Nitrous Oxide	<0.05/kg/cow-yr	Nitrification and denitrification in lagoon edges or crusts	Low, but potent (298 times CO ₂)

Neither the SJVAPCD nor the County provide project-level thresholds for construction related GHG emissions. Construction GHG emissions are a one-time release over a 6-month construction period and are, therefore, not typically expected to generate a significant contribution to global climate change. As such, the analysis herein is limited to discussion of long-term operational GHG emissions.



The project operational mobile source greenhouse gas (GHG) emissions will be the result of the minor impact of 1.5 employee round trips per day and of 12 truck round trips for gas collection. This would total about 3.5 trips per day. As noted previously, the proposed project will be subject to the rules and regulations of the SJVAPCD.

To be determined to have a less-than-significant individual and cumulative impact with regard to GHG emissions, projects must include BPS sufficient to reduce GHG emissions by 29 percent when compared to Business As Usual (BAU) GHG emissions. Per the SJVAPCD, BAU is defined as projected emissions for the 2002- 2004 baseline period. Projects which do not achieve a 29 percent reduction from BAU levels with BPS alone are required to quantify additional project-specific reductions demonstrating a combined reduction of 29 percent. It has been calculated that the proposed project will surpass this required reduction from BAU levels by the production of renewable natural gas, per the following:

- Assuming natural gas has 1,037 Btu per cubic foot;
- Assuming 200 MCF (200,000 ft³) of fossil-based natural gas offset daily by the production of 200 MCF of renewable natural gas;
- 200,000 ft³ times 1,037 Btu/ft³ equals 207,400,000 Btu/year;
- With 1 kW per hour equaling 3,412, 207,400,000 Btus equals 60,783 kWh per day;

With the annual projected use of electricity of approximately 702,397 kWh per year, and with the project only needing 60,783 kWh per day of renewable natural gas, the "offset" of fossil based natural gas can be reached within the first 12 days on annual operations of the digester. This is also equal to a reduction in BAU GHG emissions of approximately 97%.

4.8.3 Mitigation

Mitigation will be a result of SJVAPCD project review and recommendations. Additional mitigation proposed by Orland is not necessary.

4.8.4 Conclusion

Based on the impact discussion above, potential impacts associated with greenhouse gases would be less than significant.



4.9 Hazards and Hazardous Materials

Hazards and Hazardous Materials	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code § 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☒	☐
f. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

4.9.1 Setting

- a) Hazardous materials, as defined by the California Code of Regulations, are substances with certain physical properties that could pose a substantial present or future hazard to human health or the environment when improperly handled, disposed, or otherwise managed. A hazardous waste is any hazardous material that is discarded, abandoned, or slated to be recycled. Hazardous materials and waste can result in public health hazards if improperly handled, released into the soil or groundwater, or through airborne releases in vapors, fumes, or dust. Soil and groundwater having concentrations of hazardous constituents higher than specific regulatory levels must be handled



and disposed of as hazardous waste when excavated or pumped from an aquifer. The site is not located within 1,000 feet of a school. The dairy does not use any materials classified as Acutely Hazardous Material.

- b) The proposed project is a digester and biogas facility at an existing dairy. Pursuant to the Hazardous Materials Disclosure Survey submitted with the application, the facility will handle or store hazardous materials on site. To store or handle hazardous materials onsite, the owner/operator must report the use or storage of these hazardous materials to the California Environmental Reporting System (CERS) and must comply with all applicable federal, state, and local regulations pertaining to the storage of hazardous materials. In this way, impacts related to the use, transport, or disposal of hazardous materials are expected to be less than significant.
- c) The proposed facility is not located within 1/4-mile of an existing or proposed school.
- d) The California Department of Toxic Substance Control's (DTSC) uses databases such as EnviroStor GeoTracker to map the location of hazardous waste sites including sites that have been remediated, sites currently undergoing remediation, and sites that require cleanup. Also, the State Water Resources Control Board's (SWRCB) has its GeoTracker system (California Environmental Protection Agency [Cal/EPA] 2015). There are no sites on either database with 1 mile of the project site.
- e) The nearest public airport is the Stockton Metropolitan Airport south of Stockton. It is located 14 miles north of the project site. The project site is not within an airport land use plan.
- f) According to the County's emergency evacuation map for the areas near project site, the project is not near any emergency evacuation route for any of the nearby communities.
- g) California Department of Forestry and Fire Protection has rated this property as a Local Responsibility Area (LRA), meaning the financial responsibility of preventing and suppressing wildfires is primarily the responsibility of a Local agency; in this case the Lathrop-Manteca Fire Protection District. Also, this parcel is located in an area that the State Fire Marshal has identified as not being in a Fire Hazard Severity Zone per Government Code section 51178. (CAL FIRE, 9/24/2025)

4.9.2 Impact

- a) This project does not involve the transportation or receipt of hazardous materials. The proposed project would not directly introduce new forms of hazardous materials during operation of the facility.
- b) The receipt and handling of hazardous materials at this facility is prohibited by law. Compliance with the existing applicable state regulations is expected to reduce potential impacts associated



with reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Therefore, impacts would be less than significant.

- c) Implementation of the proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school. Therefore, no impact would occur.
- d) The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (DTSC Hazardous Waste and Substances Site List – Site Cleanup [Cortese List] Cal/EPA; accessed September 16, 2025). In addition, there are no such sites within one mile of the project site. Therefore, no impact would occur because of the proposed project.
- e) Because of the distance from the public airport, there would not be any safety hazard for people working at the project site.
- f) The proposed project would comply with the Municipal Code and Fire Department standards for emergency vehicle access and would not conflict with the approved LHMP. There would be no impact in connection with the proposed project.
- g) Though the project will not be endangered by wildfire, it would comply with the applicable fire safety provisions of the California Building Code as well as standard conditions of approval, thereby reducing the risk of damage from fire to the maximum extent practicable.

4.9.3 Mitigation

Mitigation proposed by Orland is not necessary.

4.9.4 Conclusion

Based on the impact discussion above, potential impacts associated with hazards and hazardous materials and fire would be less than significant. Therefore, no mitigation is required.

4.10 Hydrology and Water Quality

Hydrology and Water Quality	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
-----------------------------	--------------------------------	--	------------------------------	-----------

Would the project:



Hydrology and Water Quality	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐
b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i. result in a substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
ii. substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐
d. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

4.10.1 Setting

- a) The proposed project site lies within the drainage area for the Stanislaus River. The dairy currently operates three permitted manure ponds and manure pit which does some solids separation from the waste stream. There is no existing mechanism in place to capture the methane gas from these facilities.



Figure 4-4: Eastern Manure Pond



Figure 4-5: Western Manure Pond





Figure 4-6: Manure Pit



Construction of the dairy digester processing area will result in ground disturbance equal to or greater than one acre in size and would then be within the jurisdiction of the Central Valley Regional Water Quality Control Board (CVRWQCB). Groundwater will supply the water necessary for the offices, restrooms, eye-washing stations, and drinking fountains and is then transferred to the on-site septic sewer system. It is also used for dust control, landscaping, and washing down equipment. Any water runoff will be diverted to the manure retention pond. Implementation of the proposed project would not interfere with ground water recharge or significantly deplete groundwater supplies.

The dairy currently operates according to Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order No. R5-2007-0035. This includes a monitoring and reporting program and record-keeping and reporting requirements.

- b) The Eastern San Joaquin Groundwater Subbasin (Subbasin) is one of 21 basins and subbasins identified by the California Department of Water Resources (DWR) as being in a state of critical overdraft. The Sustainable Groundwater Management Act (SGMA) requires preparation of a Groundwater Sustainability Plan (GSP) to address measures necessary to attain sustainable conditions in the Subbasin.

While the total volume of groundwater in storage in the Subbasin has declined over time, groundwater storage reduction has not historically been an area of concern in the Subbasin, as there are large volumes of fresh water stored in the aquifer. The total fresh groundwater in storage was estimated at over 50 million-acre-feet (MAF) in 2015. The amount of groundwater in storage has decreased by approximately .01 percent per year between 1995 and 2015.



- c) Groundwater is used as the source of water for dairy facility operations, drinking, and fire suppression the dairy and onsite residences. The dairy uses 204-250 gallons per day of water for the flush cleaning system and domestic water use. The dairy has 3 wells at depths of 200 and 400 (2) feet.
 - (i) The current on-site drainage pattern is designed to flow into the manure ponds without creating additional opportunities for soil erosion either onsite or offsite.
 - (ii) The project site is relatively flat. The current on-site drainage pattern is designed to flow into the manure ponds. No on-site flooding currently occurs. The project site is in the designated Flood Zone X, which is an area determined to be outside the 0.2% annual chance floodplain by the Federal Emergency Management Agency (FEMA Map Number 06077C0780F). Runoff will be contained onsite in manure ponds or absorption by the adjacent fields. The proposed project would result in an increase of 2.9 acres in relatively impervious surfaces at the project site and would modify the existing drainage patterns. However, the new project facilities would be designed to control fluids and prevent runoff. Additionally, compliance with the existing Industrial Activities SWPPP minimize potential impacts associated with the creation or contribution of runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. Therefore, the proposed project is not expected to create or contribute runoff water, which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
 - (iii) Groundwater has been protected through the existing use of a waste collection system for the cows and its disposal into lined manure ponds. The existing ponds were constructed pursuant to Order R5-2013-0122 Pond Specifications. Compliance with the existing Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order No. R5-2007-0035 minimized potential impacts to substantially degrade water quality for the area.
 - (iv) Runoff water is designed to flow into the manure ponds or into the crop fields. There are no historic flood flow areas on the dairy or adjacent field. Water resources, such as rivers, streams, lakes, reservoirs, impoundments, bays, inlets, estuaries, wetlands, drainage sloughs, vernal pools, swales, or Clean Water Act (CWA) Section 303d impaired water bodies within the project site.
- d) The existing dairy and project site are not in an area of flooding. The nearest surface water resource is the Stanislaus River, about 3 miles south of the project site. The project site is not located in a coastal zone where there would be risk of tsunami, nor is it located near a large body of water where there would be risk of seiche. The landslide/mudflow risk is considered very low.
- e) The project is consistent with existing water quality control plans ((Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order No. R5-2007-0035), with the approval of a Construction General Permit Order 2009-009-DWQ from the RWQCB, and the Eastern San Joaquin County Groundwater Subbasin Plan as no additional water supplies are required.



4.10.2 Impact

Construction activities would temporarily modify the existing drainage patterns on-site.

- a) The project will not be creating additional effluent that would affect water quality or waste discharge requirements. It would not alter the existing dairy operations, which operate according to CVRWQCB Order R5-2013-0122, Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies.
- b) The project would not require additional water supplies. Construction would result in an increase in impervious surfaces of approximately 2.9 acres compared to existing conditions. As part of the construction process, the project will meet requirements to submit plans for the disposition of surface runoff and erosion control to the San Joaquin County Public Works Department.

Since the project will disturb one (1) or more acres of soil it will be required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-009-DWQ from the RWQCB. The General Permit process requirements would be followed, and the mitigation would be incorporated into the project's construction activities regarding stormwater runoff. The Construction General Permit requires the development of a Storm Water Pollution Prevention Plan (SWPPP) by a certified Qualified SWPPP Developer (QSD).

- c) There would be a modification of the existing drainage pattern on-site; therefore, construction activities could potentially interfere in only a minor, temporary way with groundwater recharge.
 - (i) The project will not result in substantial erosion and there is no place for siltation to occur.
 - (ii) Implementation of the proposed project would create new impervious surfaces and would modify existing drainage patterns on-site. Compliance with County's ordinances and SWRCB regulations is expected to minimize potential impacts associated with erosion, runoff, and modification of drainage patterns associated with the proposed project and to ensure compliance with state minimum standards. Therefore, the proposed project would have a less than significant impact on existing drainage patterns, which would not result in substantial erosion or siltation on- or off-site.
 - (iii) Implementation of the proposed project would create a small increase in runoff, and impervious surfaces at the project site. There will be a minor change in drainage patterns. However, additional storm water intakes will satisfactorily accommodate additional runoff from the new impervious areas. Therefore, the proposed project would have minimal impact on existing site drainage, which could result in flooding on- or off-site.
 - (iv) Flood flows do not use the dairy or fields of the project site. Consequently, while the proposed project does propose structures, within the 100-year flood hazard area as mapped on a FEMA designated Flood Hazard Boundary or Flood Insurance Rate Map (FEMA 2012), a less than significant impact would occur.



- d) Implementation of the proposed project would not expose people or structures to the risk of inundation by seiche, tsunami, or mudflow. Therefore, no impact would occur because of the proposed project.
- e) Implementation of the proposed project would be consistent with existing water quality control plans and the Eastern San Joaquin County Groundwater Subbasin Plan as no additional water supplies are required. Therefore, the project will have a less than significant impact.

4.10.3 Mitigation

Mitigation proposed by Orland is not necessary.

4.10.4 Conclusion

Based on the impact discussion above, potential impacts associated with hydrology and water quality would be less than significant.

4.11 Land Use and Planning

Land Use and Planning	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Physically divide an established community?	☐	☐	☐	☒
b. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒

4.11.1 Setting

The San Joaquin County General Plan designates the project site as A/G – General Agriculture. The designation is meant to provide for large-scale agricultural production and associated processing, sales, and support uses. The AG-40 zone is intended to preserve agricultural lands for the continuation of commercial agricultural enterprises.

According to Development Title Section 9-605.2, the use types assigned to this project, *Agricultural Waste* and *Utility Service - Major*, would be permitted within the AG-40 zone with a conditionally approved Site Approval application.



Physically the proposed project would be located in an unincorporated area about 4 miles west of Ripon and 2.5 miles south of the Manteca city limits. It is not located in an unincorporated community. It is adjacent to E. Brady Road, about a half mile east of the intersection with Manteca Road. The street address for the dairy is 8350 E. Brady Road.

The dairy site is located in Section 2, Township 17 North, Range 7 East and can be found on the French Corral 7.5-minute USGS Quad map. It includes Assessor Parcels: APN 048-210-005 (30.0 acres) and APN 48-210-006 (35.0 acres), and APN 048-210-007 (5.0 acres); The assessor parcel maps are found in Appendix E.

Surrounding uses are completely devoted to agricultural operations such as dairies, row crops, and orchards. There are no buildings or roads on or near the project site. Figure 4-8 displays the project area's land use designations.

AGRICULTURAL

- A/L Limited Agriculture
- A/G General Agriculture
- A/UR Urban Reserve Agriculture
- A/I Industrial Agriculture

RESIDENTIAL

- R/R Rural Residential
- R/VL Very Low Density Residential
- R/L Low Density Residential
- R/LM Residential Low & Medium Density
- R/M Medium Density Residential
- R/MH Medium High Residential
- R/H High Density Residential

COMMERCIAL

- C/N Neighborhood Commercial
- C/C Community Commercial
- C/G General Commercial
- C/O Office Commercial
- C/R Commercial Recreation
- C/RIS Rural Service Commercial
- C/PS Freeway Service Commercial

INDUSTRIAL

- I/L Limited Industrial
- I/T Truck Terminals
- I/G General Industrial
- I/W Warehouse Industrial

OPEN SPACE

- OS/PR Open Space Parks Recreation
- OS/RC Open Space Resource Conservation

MULTIPLE USE

- AP/X Airport/Multi-Use
- M/X Mixed/Use

PUBLIC

- P/F Public Facilities or Services

BOUNDARIES

- Incorporated Areas
- Community Boundary

CIRCULATION

- Interstate
- Freeway
- Principal Arterial
- Major Collector
- Minor Arterial
- Minor Collector
- Rail Road

San Joaquin County, CA
LATHROP-MANTECA
GENERAL PLAN AMENDMENTS

APP'D: BOARD ORDER: RESOLUTION: ADOPTED DATE:
 PA 2-2008-06 8-20-08 03/17/2009
 PA 2-2008-07 8-22-08 06/10/2009
 PA 2-2008-08 8-22-08 07/27/2009
 PA 2-2008-09 8-22-08 08/19/2009
 PA 2-2008-10 8-22-08 09/16/2009
 PA 2-2008-11 8-22-08 10/13/2009
 PA 2-2008-12 8-22-08 11/10/2009
 PA 2-2009-01 8-22-09 01/14/2010
 PA 2-2009-02 8-22-09 02/11/2010
 PA 2-2009-03 8-22-09 03/11/2010
 PA 2-2009-04 8-22-09 04/11/2010
 PA 2-2009-05 8-22-09 05/11/2010
 PA 2-2009-06 8-22-09 06/11/2010
 PA 2-2009-07 8-22-09 07/11/2010
 PA 2-2009-08 8-22-09 08/11/2010
 PA 2-2009-09 8-22-09 09/11/2010
 PA 2-2009-10 8-22-09 10/11/2010
 PA 2-2009-11 8-22-09 11/11/2010
 PA 2-2009-12 8-22-09 12/11/2010

San Joaquin County
 Geographic Information System
 44 N San Joaquin Street Suite 200, Stockton, CA 95202
 The information on this map is for general information purposes only.
 The County of San Joaquin does not warrant the accuracy, completeness
 or suitability for any particular purpose. The information should not
 be relied upon without field verification.

Printed Date: 1/17/2010 Created: 1/17/2010



4.11.2 Impact

- a) Implementation of the proposed project would not physically divide an established community. The proposed site and nearby land uses are for agricultural uses. Therefore, no impact would occur because of the proposed project.
- a) The project will not conflict with any applicable land use plan, policy, or regulation of San Joaquin County, which has jurisdiction over the project. This includes, but is not limited to the general plan, specific plan, or zoning ordinance adopted for the purpose of avoiding or mitigating an environmental effect. Therefore, no impact associated with a land use conflict would occur because of the proposed project.

4.11.3 Mitigation

Mitigation proposed by Oland is not necessary.

4.11.4 Conclusion

Based on the impact discussion above, no impact associated with land use would occur because of the proposed project; therefore, no additional mitigation is required.

4.12 Mineral Resources

Mineral Resources	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒



4.12.1 Setting

The project site historically has been used for agricultural purposes. There are no indications of any attempts at mineral extraction at the site and there are no known mineral resources within the project site or immediate vicinity (USGS 2015).

4.12.2 Impact

- a) There are no known mineral resources within the project site or immediate vicinity; therefore, implementation of the proposed project would not result in the loss of availability of a known mineral resource and no impact on mineral resources would occur because of the proposed project.
- b) There are no mineral resources identified within the project site or immediate vicinity and the proposed project would not result in the loss of availability of a locally important mineral resource recovery site. Therefore, no impact on a locally important mineral resource recovery site would occur because of the proposed project.

4.12.3 Mitigation

Mitigation proposed by Orland is not necessary.

4.12.4 Conclusion

Based on the impact discussion above, no impact associated with mineral resources would occur because of the proposed project. Therefore, no mitigation is required.

4.13 Noise

Noise	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
b. Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒



- c. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?
- ☐ ☐ ☐ ☒

4.13.1 Setting

Noise sensitive land uses include schools, hospitals, nursing homes, churches, libraries, and residences. The only sensitive land uses are three residences located within the immediate vicinity of the project. Two of them are on the property owned by Frank Borges, which accommodates employees of the dairy and are approximately 600 and 1,000 feet respectively. There is one other home located northeast on East Brady Road, approximately 1,000 feet from the project site. The existing ambient noise environment is characterized by dairy and vehicle operations.

4.13.2 Impact

- a) The nearest sensitive receptor to the project site would be the employee-residents living on the Borges Dairy Farm, which is approximately 600 feet north of the dairy digester system. The nearest offsite, non- Borges Dairy Farm employee to the project site is located approximately 1000 feet west of the project site on Brady Road. Implementation of the proposed project would generate new sources of noise during construction and operation activities. Noise associated with construction activities would be temporary, lasting 3 to 4 weeks.

Typical noise levels produced by construction equipment that may be used during construction activities associated with the proposed project are summarized in Table 4-4, Typical Construction Equipment Noise Levels, below. Typical construction equipment is expected to generate noise levels ranging from 70 to 90 decibels (dB) at 50 feet. Noise produced by construction equipment would be reduced over distance at a rate of about 6 dB per doubling of distance over hard sites (e.g., pavement) and 7.5 dB per doubling of distance over soft sites (e.g., grass). As the project is to be constructed on an existing engineered pad, heavy equipment use will be less with less noise accordingly.

Table 4-7: Typical Construction Equipment Noise Levels

Noise Source	Noise Level (dBA) at 50 Feet
Heavy Trucks	88
Backhoe	80
Pneumatic Tools	85
Concrete Pump	82



Source: Federal Transit Administration, Transit Noise and Vibration Impact Assessment, May 2006.

Construction activities may exceed the County's maximum standard daytime noise level of 70 dB on the project site; however, construction noise would be intermittent and short term in duration and would not require major demolition, excavation, or grading activities that could generate substantial noise and vibration. Construction activities would be conducted between the hours of 8:00 a.m. and 6:00 p.m. Monday through Friday, or Saturday from 8:00 a.m. to 5:00 p.m.

The noise generated from hauling vehicle trips associated with the proposed project is not expected to exceed existing levels as heavy duty vehicles, such as raw milk tanker trucks, already utilize E. Brady Road. Therefore, construction and operation of the proposed project is not expected to generate noise levels more than standards established in the local general plan or noise ordinance.

It is noted that noise standards are exempted in Agricultural zoned properties. Section 9-404.020(f) effectively removes standard farming operations from the County's noise regulatory framework, allowing agricultural activities to operate without being constrained by the Chapter 9-404 noise limits—so long as those activities are consistent with normal agricultural practice. However, the proposed dairy manure digester is not considered normal agricultural practice, so stationary noise sources must be considered as non-exempt.

The digester and biogas facility, like the existing dairy, will operate 24-hours per day, 7-days per week. Pursuant to the San Joaquin County Development Title Section 9-1025.9(b), Part II, proposed projects that would create new stationary noise sources are required to mitigate the noise levels so as not to exceed noise level standards. The noise-generating component of the project will be the compressors needed in the biogas to biomethane and transfer of the biomethane to the transport trucks. The compressors will be enclosed in the biogas upgrade container and will generate approximately 68 dBA at 50 feet. At approximately 600 feet from the enclosed compressors to the closest on-site residence, attenuation of the noise would lower it to less than 50 dBA. New processing operations are expected to slightly increase the ambient noise levels in the immediate area within the dairy. The stationary noise standard for daytime (7:00 a.m. - 10 p.m.) is 75 dB for nighttime (10:00 p.m. - 7:00 a.m.) it is 65 dB (Table 9-404.040 in the San Joaquin County Development Title). Therefore, the project's likelihood of generating substantial temporary or permanent increases in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance are expected to be less than significant.

- b) As the project will be constructed on an existing engineered pad, no heavy vehicular or compaction equipment will be used for this project. Thus, there will be no excessive groundborne vibration or noise levels exposure of persons by the project.
- c) The project site is not located within an airport land use plan or within two (2) miles of a public airport or public use airport. The nearest public airport is the Stockton Metropolitan Airport, 14 miles north of the project site. Therefore, no impact would occur.



The project site is not located within two miles of a private airstrip. Therefore, no impact would occur.

4.13.3 Mitigation

Mitigation proposed by Orland is not necessary.

4.13.4 Conclusion

Based on the impact discussion above, potential impacts associated with noise would be less than significant. There would be no impact on private or public airports. Therefore, no mitigation is required.

4.14 Population and Housing

Population and Housing	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

4.14.1 Setting

San Joaquin County has a population of 815,000 as of 2025. (World Population Review, 2025). The unemployment rate for 2025 is 6.8% (CA Employment Development Department)

- a) The project site is located in an agricultural area and is not within or adjacent to suburban residential development. There is no suburban development on the project site. East Brady Road dead ends about a quarter of a mile east of the project site. The project will employ 1.5 new staff to operate and care for the dairy digester and biofuel facility.
- b) The residences on the property for use by dairy employees will remain.



4.14.2 Impact

- a) Given that only 1.5 new staff will be required to operate and maintain the project and with the county having an unemployment rate (as of September 23, 2025) of 6.8%, it is expected that any new hires will already live in the county area; therefore, the project is not expected to induce population growth in the area. Therefore, no significant impact would occur.
- b) There will be no displacement of any residence. Therefore, the project will not have an impact.

4.14.3 Mitigation

Mitigation proposed by Orland is not necessary.

4.14.4 Conclusion

Based on the impact discussion above, no impact associated with population and housing would occur.

4.15 Public Services

Public Services	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	☐	☐	☒	☐
b. Fire protection?	☐	☐	☒	☐
c. Police protection?	☐	☐	☐	☒
d. Schools?	☐	☐	☐	☒
e. Parks?	☐	☐	☐	☒
f. Other public facilities?	☐	☐	☒	☐



4.15.1 Setting

- a) Existing public services have capacity to accommodate 3 new employees. No new government facilities will need to be built.
- b) Existing fire protection and suppression on the project site, The Lathrop-Manteca Fire Protection District provides service to the existing dairy, though no calls for such services have been required. There is existing onsite fire protection and fire emergency equipment. The project proponent will pay required fire fees and adhere to the requirements from the San Joaquin County Ordinance Code and Fire Codes.
- c) The project area is in an unincorporated area of San Joaquin County with law enforcement services are provided by the County Sheriff's Department in 7000 Michael Canlis Blvd, French Camp, CA. The dairy and project site will operate 24 hours per day, 7 days per week with working staff onsite at all times. The proposed facility does not anticipate additional needs or services from the Sheriff Department.
- d) The project will not generate additional residential population that would create additional demand for schools or additional park services within San Joaquin County. Therefore, the project would have no impact on schools.
- e) The proposed project does not include construction of housing and would not generate an increased demand for parks. Therefore, the project would have no impact on parks.
- f) Other public facilities that are typically affected by development projects include the San Joaquin County Library and County roads.

4.15.2 Impact

- g) The project will not result in impacts associated with the provision of existing governmental facilities nor require the construction of any new facilities. Fire Protection. No impact.
- h) Police Protection. No impact.
- i) Schools. No impact.
- j) Parks. No Impact.
- k) Other Public Facilities. Implementation of the proposed project is expected to result in less than significant impacts on public facilities.



4.15.3 Mitigation

Additional mitigation proposed by Orland is not necessary.

4.15.4 Conclusion

Based on the impact discussion above, impacts associated with public services would be less than significant.

4.16 Recreation

Recreation	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

4.16.1 Setting

The San Joaquin County General Services Department oversees the San Joaquin County Parks and Recreation Division, which operates and maintains approximately 997 acres of parkland, consisting of nine (9) regional and twelve (12) non-regional parks. With opportunities for fishing, camping, boating, and various other activities, the Division has 129 rental facilities, including 23 picnic shelters, 68 campsites, 21 boat slips, and 17 sports fields.

In addition, Caswell Memorial State Park 2.5 miles south of the project site includes picnic areas, hiking trails and cycling lanes. It is located along the Stanislaus River covering more than 250 acres. The State Park Campground is located east and adjacent to the park.



4.16.2 Impact

- a) The proposed project would not create a new use that would generate population growth or increase demand for existing or new recreational facilities. Therefore, deterioration of existing facilities would not occur because of the proposed project. The proposed project would not include recreational facilities or require the expansion of existing recreational facilities. Therefore, no impact would occur.
- b) The proposed project would rely on obtaining employees from the local workforce and would not induce additional growth to the area. It does not include recreational facilities or require the construction or expansion of recreational facilities. Therefore, no impact would occur.

4.16.3 Mitigation

Based on the impact discussion above, no impact associated with recreational facilities would occur; therefore, no mitigation is required.

4.16.4 Conclusion

Based on the impact discussion above, no impact associated with recreational facilities would occur; therefore, no mitigation is required.

4.17 Transportation

Transportation and Traffic	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☐	☒
b. Conflict or be inconsistent with CEQA Guidelines § 15064.3, subdivision (b)?	☐	☐	☒	☐
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐



Transportation and Traffic	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
d. Result in inadequate emergency access?	☐	☐	☐	☒

4.17.1 Setting

The sole access to the project site is off of Manteca Road, a San Joaquin County-maintained two-lane rural arterial roadway. Access to the site will be via an all-weather, paved road, East Brady Road. This all-weather access roadway currently allows and will allow support vehicles and employees/visitors to enter and navigate the site. Entry to the site access road will be approximately 2,500 feet southwest of the intersection of Manteca Road and East Brady Road.

Figure 4-8: E. Brady Road/Manteca Road Intersection



The San Joaquin County Public Works Department has traffic count data for E. Brady Road east and Manteca Road north of E. Brady Road. While the data is dated, it still reflects traffic patterns near the proposed project site and may be lower than current volumes. The traffic count data from 2014 indicated a average daily trips of 97 vehicles going both ways. Traffic on Manteca Road north of Brady totaled 1300 ADT.

Anticipated Traffic Generation. The proposed project is expected to run 7 days a week, 24 hours a day, for 365 days per year. Vehicular traffic associated with the proposed project include truck collection of the biogas from the Orland projects and employee vehicles. Truck collection services are estimated to be 12 trips per month.



Employees are on site 7 days a week, 24 hours a day. For environmental impact review purposes, increased employee vehicle trips from the proposed projects are estimated at 1.5 employees per day, 7 days a week, each making 1 round trip commute to the dairy.

4.17.2 Impact

- a) The proposed project is not expected to conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit. No impact is expected.
- b) With low volume ADTs, the project will not conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.

Construction Traffic. Project construction activities would generate new vehicle trips on the local roadway network associated with equipment and materials hauling to and from the project site, construction worker transportation to and from the site, and the hauling of equipment and materials within the project area. Construction-related traffic would be expected to include the use of excavation equipment, haul trucks, and various deliveries of material and equipment occurring throughout the construction period. These trips would represent a minor and temporary increase in traffic volumes on Manteca Road and other local roads in the project vicinity. The temporary increase in vehicle traffic due to construction is not anticipated to conflict with any program, plan, ordinance, or policy that addresses the circulation system, including transit, roadway, bicycle, and pedestrian facilities.

Operational Traffic. The project would increase vehicle trips on local roadways by only 4 per day (8 round trips). Therefore, the proposed project would not result in significant travel delay impacts on local roadways accessing the site and would not be expected to conflict with a program, a plan, an ordinance, or a policy addressing the circulation system. In addition, according to the Governor's Office of Planning and Research, Technical Advisory on Evaluating Transportation Impacts in CEQA, "...projects that generate or attract fewer than 110 trips per day generally may be assumed to cause a less than significant transportation impact." Thus, the project traffic impacts are less than significant.

- c) Although the project would increase vehicle traffic on the site access route, the increase in vehicle trips would not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or due to incompatible uses (e.g., farm equipment). The proposed project would not be expected to conflict with a program, plan, ordinance or policy addressing transit, roadway, bicycle, and pedestrian facilities. Therefore, this impact would be less than significant.



- d) Dairy access has been designed so it does not result in inadequate emergency access. The project would have no impact on access, and no changes are necessary. Access will be as is shown in Figure 1-2.

4.17.3 Mitigation

Mitigation proposed by Orland is not necessary.

4.17.4 Conclusion

Based on the impact discussion above, potential impacts associated with traffic and transportation would be less than significant.

4.18 Tribal Cultural Resources

Tribal Cultural Resources	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☐	☒
b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒



4.18.1 Setting

The Central California Information Center replied to a request for any information of a historical or cultural value at the project site (Appendix B – Central California Information Center Response to an Extended Records Search - Orland Power Solutions, 9/23/2025).

- a) The project site is not associated with any significant event or trend in American history, nor has it been directly associated with persons significant in our past. A historical resource is defined as a building, structure, object, prehistoric or historic archaeological site, or district possessing physical evidence of human activities over 45 years old.
- b) Additional review of records indicates that the proposed project does not contain any recorded indigenous-period/ethnographic-period cultural resources.

4.18.2 Impact

The project site is not expected to yield important information about prehistory or history. The project site is not considered a historic property, as defined in Section 106 of the National Historic Preservation Act nor does it qualify as a historical resource under CEQA. Given the extent of known cultural resources, there is low potential for locating such resources within the proposed area. Also, there are no buildings 45 years or older that would be altered or otherwise affected by the project.

There are no known tribal or other cultural resources within the project site or vicinity. In the unlikely event that significant resources are uncovered during construction activities, construction activities shall cease in the area of the discovered artifacts and construction staff will avoid altering the materials and their context until a qualified cultural resources professional has evaluated the site. The identified cultural resources should be recorded on DPR 523 (A-L).

Therefore, implementation of the project would have no impact on a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.

4.18.3 Mitigation

- a) Mitigation proposed by Orland is not necessary.
- b) If archaeological resources are encountered during project-related activities, work should be temporarily halted in the vicinity of the discovered materials and workers should avoid altering the materials and their context until a qualified professional archaeologist has evaluated the situation and provided appropriate recommendations. Project personnel should not collect cultural resources. If human remains are discovered, California Health and Safety Code Section 7050.5 requires the protection of the discovery and notification of the county coroner, who will determine if the find is Native American. If the remains are recognized as Native American, the



coroner shall then notify the Native American Heritage Commission (NAHC). California Public Resources Code Section 5097.98 authorizes the NAHC to appoint a Most Likely Descendant (MLD) who will make recommendations for the treatment of the discovery.

4.18.4 Conclusion

Based on the Impact discussion above, no impact on historical, tribal or cultural resources would occur as a result of the proposed project.



4.19 Utility and Service Systems

Utilities and Service Systems	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☐	☒
b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒
c. Result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
d. Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒
e. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

4.19.1 Setting

- a) The project will result in the relocation or construction of expanded storm water drainage and electric power facilities, Existing onsite water and wastewater facilities have been designed to address the needs of the dairy.

The existing storm water drainage facilities are designed to discharge into the manure ponds. They have to be constructed, operated, and maintained to retain all wastewater generated during the storage period (maximum period of time anticipated between land application of wastewater), together with all precipitation on and drainage through manured areas, feedstock storage areas, and waste storage areas up to and including during a 25-year, 24-hour storm.



- b) Three wells currently extract water from the groundwater basin to provide all that is needed for the dairy. No public water supply system is used.
- c) No public wastewater treatment is currently necessary for dairy operations.
- d) Solid waste removal is currently done by a private waste haulage company that disposes of the material at a nearby public landfill.
- e) The dairy currently complies with federal, state, and local statutes and regulations related to solid waste disposal.

4.19.2 Impact

- a) No impact. No additions or modifications will be necessary to accommodate the proposed project.
- b) No impact. No additions or modifications will be necessary to accommodate the proposed project.
- c) No impact. Public wastewater treatment is not needed for current dairy operations.
- d) No impact. The project will not generate any solid waste requiring public landfill disposal and will in fact consume much of the solid waste (as manure) currently being transported to the public landfill.
- e) The proposed project would comply with all applicable federal, state, and local regulations. Therefore, impacts would be less than significant. The in-vessel digestion of the dairy manure must comply with the San Joaquin County Local Enforcement Agency's Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with section 18100).

4.19.3 Mitigation

Mitigation proposed by Orland is not necessary.

4.19.4 Conclusion

Potential impacts associated with utilities and service systems would either have no impact or be less than significant.



4.20 Mandatory Findings of Significance

Mandatory Findings of Significance	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
Would the project:				
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

4.20.1 Impact

- a) As described throughout the impact analysis in Section 4, Evaluation of Environmental Impacts and through project design, the proposed project would not result in any significant impacts to the environment. The new facilities will be sited on an existing compacted dirt pad would not require any additional demolition, land clearing, excavation, grading, or vegetation removal activities. Implementation of the proposed project would not significantly degrade the quality of the environment, reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. Therefore, impacts would be less than significant.



- b) As described throughout the impact analysis in Section 4, Evaluation of Environmental Impacts and through project design, the construction of the proposed project would not result in any individually limited, but cumulatively considerable impacts to the environment. Construction would be completed in compliance with San Joaquin County Building Permits and in accordance with the California Building Code, and all associated construction activities would be performed in compliance with County ordinances.

Operation of the proposed project is not expected to significantly contribute to cumulative impacts in the project area. As discussed in Sections 4.3, Air Quality, and 4.7, Greenhouse Gas Emissions, impacts associated with air quality and greenhouse gas emissions resulting from the proposed project would not exceed established thresholds and would be less than significant, and in fact the resulting operations of the business will be a significant net benefit to the air quality and greenhouse gas reduction in the area. As described in Section 4.16, Transportation and Traffic, vehicle trips within existing permitted trip limits are considered negligible despite the preexisting LOS at relevant intersections and roadways. As discussed in Sections 4.14, Public Services, 4.15, Recreation, and 4.17, Utilities and Service Systems, the proposed project would not place a new demand on public services, facilities, or utilities that could result in cumulative impacts. Therefore, impacts associated with the proposed project are not considered cumulatively considerable and would be less than significant.

- c) The proposed project is not expected to result in environmental effects that would cause substantial adverse effects on human beings indirectly or directly. As discussed previously, the new facility would be constructed in compliance with the California Building Code as well as the existing County Building Permits and CVRWQCB requirements. It, therefore, is not expected to result in a substantial adverse effect on humans. Therefore, impacts are less than significant, and the reduction in negative air quality and greenhouse gas emissions should result in a net beneficial effect on the local population.

4.20.2 Mitigation

There are no mitigation measures proposed by Orland.

4.20.3 Conclusion

Based on the impact discussion above, potential impacts associated with the proposed project would be less than significant;

Attachment D

Mitigation Monitoring and Reporting Program

This page intentionally left blank.

14-Aug-25 PA-2300155 Mitigation Monitoring and Reporting Program						
Impact	Mitigation Measure/Condition	Type of Review		Agency for Monitoring and Reporting Compliance	Action Indicating Compliance or Review	Verification of Compliance or Annual Review of Conditions
		Monitoring	Reporting			By Date Remarks
IV. Biological Resources X. Hydrology and Water	Measure 4.a-f: Participation in the SIMSCP		X	San Joaquin Council of Governments CVRWQB	Certificate of Payment and Signed ITMM	
	Measure 5.2: Require design and operational features to manage all wastes and discharges to protect surface waters. Requirements include the following: - Prohibitions against any surface water discharges (unless exempt from NPDES permitting requirements or covered by separate NPDES permit). - Prohibitions against any discharges that would cause exceedance of surface water quality objectives, - Setbacks from surface water bodies. - Drainage requirements for co-digestion substrates/waste storage/receiving/handling areas to drain to on-site wastewater retention ponds, - Lining requirements for retention ponds in new facilities and operational dairies, - Monitoring requirements that include sampling data of soils, retention water, and waste streams to reconcile annually with Nutrient Management Plan (NMP), - Requirements for tailwater return systems or other effective methods to minimize offsite discharges, - Prohibitions against any unreasonable effects on beneficial uses of nearby surface waters.	X		Each facility shall prepare a site-specific Waste Management Plan in accordance with the WDR requirements for review and approval by the Central Valley Water Board prior to commencement of operations. Annual monitoring reports shall be reviewed by the Central Valley Water Board and any revisions deemed necessary to the handling, storage, or land application of wastes shall be incorporated into facility operations.		
X. Hydrology and Water	Measure 5.3: Require best practicable treatment or control requirements to minimize discharges to land from dairy digester and co-digester facilities. Requirements include:	X			Each facility shall prepare a site-specific Waste Management Plan in accordance with the WDR requirements for review and approval by the Central Valley Water Board prior to commencement of operations. Annual monitoring reports shall be reviewed by the Central Valley Water Board and any revisions deemed necessary to the handling, storage, or land application of wastes shall be incorporated into facility operations.	
	Prepare and implement site-specific Salt Minimization Plan (SMP) as approved by the Central Valley Water Board. The SMP shall consider the elimination, decommissioning,					



Attachment E
Findings: Williamson Act
Principles of Compatibility and
Findings for Use Permit

This page intentionally left blank.

FINDINGS FOR WILLIAMSON ACT COMPATIBILITY

PA-2500075(CUP)

ORLAND POWER SOLUTIONS, LLC

1. Conditions are included in the contract that mitigate or avoid those on-site and off-site impacts that would otherwise render the proposal inconsistent with the Williamson Act principles of compatibility.
 - This finding can be made because the proposed dairy digester facility includes measures intended to protect the long-term agricultural viability of the property and minimize impacts to surrounding agricultural operations. The project will utilize existing dairy waste for the production of renewable natural gas (RNG), increasing the benefit of the dairy. Further, the proposed project is not anticipated to interfere with surrounding agricultural operations, as all development will be contained on the dairy site and only 12 monthly truck trips are anticipated to service the digester. The project has been reviewed for impacts with an initial study and is subject to all mitigation measures contained within the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project. Therefore, conditions have been incorporated into the project to mitigate or avoid impacts that could otherwise render the project inconsistent with Williamson Act compatibility principles.
2. The productive capability of the land has been considered as well as the extent to which the proposed use(s) may displace or impair agricultural operations.
 - This finding can be made because the subject parcel has historically been utilized for agricultural production, animal raising, and dairy uses, and contains productive agricultural soil. The proposed dairy digester will occupy approximately 2.9 acres of the 78.8-acre dairy parcels, and will operate as an accessory use to the existing dairy, utilizing manure exclusively from the existing dairy operations. The dairy will continue to operate, and the remainder of the site will remain open grazing land for animal raising. As a result, the proposed project will further enhance existing agricultural operation onsite, and utilize dairy waste for the production of renewable natural gas (RNG), increasing the public benefit from the dairy site. Therefore, the productive capability of the land has been considered, and the proposed use will not substantially impair agricultural operations on the subject parcel or surrounding properties.
3. The proposed use(s) are consistent with the intent of the Williamson Act to preserve agricultural and open-space land.
 - This finding can be made because Renewable Energy uses are allowable on Williamson Act contracted land pursuant to Development Title Section 9-702.060(b)(1). The proposed project does not require cancellation or non-renewal of Williamson Act Contract No. 78-C1-223, which will remain in effect during operation of the facility. The proposed dairy digester is an accessory use to the existing dairy developed on site, which will remain in operation. The remainder of the site not used for the dairy and digester, will remain open grazing land for animal raising, another compatible use under Williamson Act contract. Therefore, the proposed use is consistent with the intent of the Williamson Act to preserve agricultural and open-space land by continuing the existing agricultural uses on-site.

FINDINGS FOR USE PERMIT

PA-2500075(CUP) ORLAND POWER SOLUTIONS, LLC

1. The proposed use is consistent with the goals, policies, standards, and maps of the General Plan; any applicable Master Plan, Special Purpose Plan, Specific Plan, and Planned Development zone; and any other applicable plan adopted by the County.
 - **This finding can be made because the proposed Renewable Energy – Biomass Conversion use may be conditionally permitted in the AG-40 (General Agriculture, 40-acre minimum) zone with an approved Conditional Use Permit. The project site is zoned AG-40 which implements its General Plan designation of A/G (General Agriculture). Therefore, the parcel meets the requirements for the A/G General Plan designation and the project will meet the Development Title regulations for the use. There are no Master Plans, Specific Plans, Special Purpose Plans, or other applicable plans adopted by San Joaquin County applicable to the subject property.**
2. Adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, and the proposed improvements are properly related to existing and proposed roadways.
 - **This finding can be made because the project proposes adequate utilities, access roads, sanitation, drainage, and other necessary facilities, and the proposed improvements are properly related to existing and proposed streets and highways. Access will be via one driveway on E. Brady Road, the placement of which will be subject to the Department of Public Works, ensuring the connection with the current road network will be properly related to the highway. The driveway and circulation lanes will have all weather surfacing to prevent bringing dirt and other site material onto the roadway. The project site will utilize a private onsite well for water and septic system for sanitary sewer. Drainage facilities in accordance with the San Joaquin County Development Standards must be provided for storm water.**
3. The site is physically suitable for the type of development and for the intensity of development.
 - **This finding can be made because the 2.9-acre project site is adequately sized and shaped to accommodate all components of the anaerobic digester and associated structures, and all other Development Title requirements for the proposed use, as depicted on the Site Plan dated November 19, 2025. The project site will utilize all weather surfacing on driveways, circulation lanes, and parking areas, and other improvements will comply with applicable Development Title regulations to ensure and support the project's type and intensity. The project site is zoned AG-40 (General Agriculture, 40-acre minimum), a zone that is applied to parcels that are suitable for the intensity of all possible uses.**
4. The location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.
 - **This finding can be made because the project is conditioned to meet all Development Title regulations protecting public health, safety, and welfare and ensuring that adjacent parcels are not injured by the project. Further, the Initial Study prepared for this project found no potentially significant environmental impacts that could not be mitigated to a less than significant impact. Surrounding parcels are primarily in agricultural production with scattered residences. The nearest off-site residence is located approximately 800 feet northeast of the project area, however the proposed development does not further encroach on the residence as it is within, and is buffered by, the existing dairy development.**

5. The proposed use will not create any nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding ambient conditions.
 - **This finding can be made because all potential impacts identified in the Initial Study performed for the project can be mitigated to less than significant. The proposed project will reduce existing dairy lagoon odors by containing biological activity within the digester and removing manure particles post-digestion. The proposed project must comply with San Joaquin County noise limits specified in Development Title Table 9-404.040. The development will be subject to the rules and regulations of the San Joaquin County Development Title, the Air Pollution Control District, and the State Water Quality Control Boards.**
6. The site of the proposed use is adequately served by highways, streets, water, sewer, storm drainage, and other public facilities and services.
 - **This finding can be made because the project is located with direct access to E. Brady Road, a County-maintained road. The facility anticipates a maximum of 2 employees on site and 12 truck trips for RNG distribution monthly. No additional manure is brought in to the site from off-site donor dairies. Adequate utilities, sanitation, and drainage will be provided with onsite services as is permitted. These facilities will be built under permit by the Department of Public Works and then Environmental Health Department as applicable.**
7. The proposed use complies with all applicable provisions of this Title.
 - **This finding can be made because the Renewable Energy – Biomass use is allowed in the AG-40 (General Agriculture, 40-acre minimum) with an approved Conditional Use Permit. The property does not require rezoning to approve the use nor does it conflict with surrounding agricultural uses. The recommended Conditions of Approval will ensure that the project complies with all applicable provisions of the Development Title.**

This page intentionally left blank.



Attachment F

Conditions of Approval

This page intentionally left blank.

CONDITIONS OF APPROVAL

PA-2500075

ORLAND POWER SOLUTIONS, LLC

Conditional Use Permit No. PA-2500075 was approved by the Planning Commission on . The effective date of approval is . This approval will expire on , which is thirty-six (36) months from the effective date of approval, unless (1) all Conditions of Approval have been complied with, (2) all necessary building permits have been issued and remain in force, and (3) all necessary permits from other agencies have been issued and remain in force.

Unless otherwise specified, all Conditions of Approval and ordinance requirements shall be fulfilled prior to the establishment of the use and the issuance of any building permits. Those Conditions followed by a Section Number have been identified as ordinance requirements pertinent to this application. Ordinance requirements cannot be modified, and other ordinance requirements may apply.

1. COMMUNITY DEVELOPMENT DEPARTMENT (Contact: [209] 468-0222)

- a. **BUILDING PERMIT:** Submit an "APPLICATION-COMMERCIAL BUILDING PERMIT". The Site Plan required as a part of the building permit must be prepared by a registered civil engineer or licensed architect. This Plan must show drainage, driveway access details including gates, on-site parking, landscaping, signs, existing and proposed utility services, and grading (refer to the "SITE PLAN CHECK LIST" for details). Foundation and soils investigation shall be conducted in conformance with Chapter 18 of the California Building Code at the time of permit application. A fee is required for the Site Plan review. (Development Title Section 9-802.020)
- b. **APPROVED USE:** This approval is for a manure only anaerobic digester and natural gas clean-up and compression system to include installation of the components for solids separation, wastewater recycling, an anaerobic digester, and biogas collection system. (Use Types: Renewable Energy - Biomass)
- c. **CAPITAL FACILITY FEE:** This project may be subject to the Capital Facility Fee. If the Capital Facility Fee is applicable, the County shall collect the fees before the issuance of any building permits. (Development Title Section 9-610.070)
- d. **MITIGATION MONITORING AND REPORTING PROGRAM:** The project shall comply with all required mitigations included in the MMRP dated August 14, 2025.
- e. **PARKING:** Off-street parking shall be provided and comply with the following:
 1. All permanent parking lots, including internal circulation and loading areas, shall be surfaced and permanently maintained with asphalt concrete or Portland cement concrete. Bumper guards and/or wheel stops shall be provided when necessary to protect adjacent structures or properties. (Development Title Section 9-406.060[i])
 2. A minimum of 3 permanent off-street vehicle parking spaces shall be provided for the project. (Development Title Section 9-406.040)
 3. Each vehicle parking stall shall be an unobstructed rectangle, minimum 9 feet wide and 20 feet long. (Development Title Section 9-406.060)
 4. All parking stalls and directional arrows shall be delineated with paint or similar distinguishable material. (Development Title Section 9-406.040[e])
- f. **ACCESS AND CIRCULATION:** The following requirements apply and shall be shown on the Site Plan:

1. Access driveways shall have a width of no less than 25 feet for two-way aisles and 16 feet for one-way aisles, except that in no case shall driveways designated as fire department access be less than 20 feet wide. (Development Title Section 9-406.060[n][1])
 2. Driveways with gated entries shall be designed such that the gate is setback a sufficient distance to allow at least one vehicle (passenger car, delivery truck, etc.) to queue on-site in front of the gate without extending into the right-of-way. (Development Title Section 9-607-040(d))
- f. **LIGHTING:** Lighting shall be provided and comply with the following:
1. All lighting shall be designed to confine direct rays to the premises. No spillover beyond the property lines shall be permitted, except onto public roads, provided, however, that such light shall not cause a hazard to motorists. (Development Title Section 9-406.060[m][3])
- g. **STORAGE:** Storage shall be provided and comply with the following:
1. The facility shall include sufficient on-site storage for both raw materials and fuel production. On-site storage shall also be provided for all additional by-products resulting from bioenergy production unless those additional products are used on site for crop production or livestock consumption. (Development Title Section 9-409.110[c])
- h. **SIGNS:** Sign details shall be consistent with Chapter 9-408 of the Development Title and be included on the Site Plan. All portions of any sign shall be set back a minimum of 5 feet from existing and future right-of-way lines and shall not block pedestrian or vehicle rights-of-way or obstruct drivers' visibility. (Development Title Section 9-408.070[p])
2. DEPARTMENT OF PUBLIC WORKS (Contact: [209] 468-3000)
- a. An encroachment permit shall be required for all work within the road right-of-way. (Note: Driveway encroachment permits are for flatwork only – all vertical features, including but not limited to fences, walls, private light-standards, rocks, landscaping and cobbles are not allowed in the right-of-way.) (Development Title Sections 9-607.020 and 9-607-040)
 - b. The driveway approach shall be improved in accordance with the requirements of San Joaquin County Improvement Standards Drawing No. 17 [return radii for truck-trailer egress shall be designed to prevent encroachment onto opposing lanes of traffic] prior to final inspection. (Development Title Section 9-607.040).
 - c. The Traffic Impact Mitigation Fee shall be required for any incremental traffic resulting from this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. The fee shall be automatically adjusted July 1 of each year by the Engineering Construction Cost Index as published by the Engineering News Record. (Resolutions R-00-433)
 - d. The Regional Transportation Impact Fee shall be required for this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. (Resolution R-06-38)
 - e. The developer shall provide drainage facilities in accordance with the San Joaquin County Development Standards. Retention basins shall be fenced with six (6) foot high chain link fence or equal when the maximum design depth is 18 inches or more. Required retention basin capacity shall be calculated and submitted along with a drainage plan for review and approval, prior to release of building permit. (Development Title Section 9-606)
 - f. A copy of the Final Site Plan shall be submitted prior to release of building permit.
 - g. This project is subject to the NPDES Region-Wide Permit requirements and shall comply with the following conditions. Prior to release of the building permit, plans and calculations shall be

submitted and approved by the Public Works Department – Water Resources Division (209-468-3605).

1. Treatment: A registered professional engineer shall design the site to treat the 85th percentile storm as defined in the County's 2023 Storm Water Quality Control Criteria Plan (SWQCCP).
 2. Hydromodification: A registered professional engineer shall design the site to comply with the volume (reduction requirement outlined in the County's 2023 SWQCCP).
 3. Trash: A registered professional engineer shall design the site to comply with the trash control requirement outlined in the County's 2023 SWQCCP.
- h. Prior to release of the building permit, the owner shall enter into an agreement with San Joaquin County for post-construction maintenance of stormwater quality facilities.
 - i. Prior to release of the building permit, the applicant shall submit a Storm Water Quality Control Plan (SWQCP) to Public Works that complies with all requirements of the 2023 SWQCCP.
 - j. Prior to release of the building permit the applicant shall submit the Storm Water Pollution Prevention Plan (SWPPP) to Public Works. A copy of the approved SWPPP and all required records, updates, test results and inspection reports shall be maintained on the construction site and be available for review upon request.
3. ENVIRONMENTAL HEALTH DEPARTMENT (Contact: [209] 468-3420)
- a. Submit Water Provision Declaration form to the Environmental Health Department for review. If the EHD determines that the facility is classified as a Small Public Water System (SPWS), the applicant shall submit a Preliminary Technical Report to the California State Water Resources Control Board, Division of Drinking Water (Water Board) prior to issuance of building permits and at least six months before initiating construction of any water related improvement, as defined. The issuance of a permit to operate a small public water system by the local primacy agency, EHD, is prohibited without the concurrence of the Water Board. Please contact Gena Farley at Gena.Farley@waterboards.ca.gov or 209-948-7488 with the SWRCB Division of Drinking Water concerning the requirements for preliminary technical report submittal prior to issuance of building permits. All dairy in-vessel digestion operations shall comply with the Enforcement Agency Notification requirements set forth in Title 14, California Code of Regulations 17896, Division 7, Chapter 5.0, Article 3.0 (commencing with section 18100).
- If the Water Board determines that the applicant has met the requirements of Senate Bill 1263 and Health and Safety Code section 11652, a permit application to operate Small Public Water System shall be submitted to the EHD for approval prior to issuance of building permits. To issue a permit to operate, concurrence from the Water Board is required. An annual permit to operate a public water system will be required by the Environmental Health Department prior to sign off of the certificate of final occupancy (San Joaquin County Development Title, Section 9-602.010 and 9-601.030). An onsite well shall meet public well standards to serve the potable water supply.
- b. All dairy in-vessel digestion operations shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with section 18100).
 - c. Before any hazardous materials/waste can be stored or used onsite, the owner/operator must report the use or storage of these hazardous materials to the California Environmental Reporting System (CERS) at cers.calepa.ca.gov/ and comply with the laws and regulations for the programs listed below (based on quantity of hazardous material in some cases). The applicant may contact the Program Coordinator of the CUPA program, Muniappa Naidu (209) 468-3439, with any questions.
1. Any amount but not limited to the following hazardous waste; hazardous material spills, used oil, used oil filters, used oil-contaminated absorbent/debris, waste antifreeze, used batteries or

other universal waste, etc. – Hazardous Waste Program (Health & Safety Code (HSC) Sections 25404 & 25180 et sec.)

2. Onsite treatment of hazardous waste – Hazardous Waste Treatment Tiered Permitting Program (HSC Sections 25404 & 25200 et sec. & California Code of Regulations (CCR), Title 22, Section 67450.1 et sec.)
 3. Reportable quantities of hazardous materials-reportable quantities are 55 gallons or more of liquids, 500 pounds for solids, or 200 cubic feet for compressed gases, with some exceptions. Carbon dioxide is a regulated substance and is required to be reported as a hazardous material if storing 1,200 cubic feet (137 pounds) or more onsite in San Joaquin County – Hazardous Materials Business Plan Program (HSC Sections 25508 & 25500 et sec.)
 4. Any amount of hazardous material stored in an Underground Storage Tank – Underground Storage Tank Program (HSC Sections 25286 & 25280 et sec.)
 - i. If an underground storage tank (UST) system will be installed, a permit is required to be submitted to, and approved by, the San Joaquin County Environmental Health Department (EHD) before any UST installation work can begin.
 - ii. Additionally, an EHD UST permit to operate is required once the approved UST system is installed.
 5. Storage of at least 1,320 gallons of petroleum aboveground or any amount of petroleum stored below grade in a vault – Aboveground Petroleum Storage Program (HSC Sections 25270.6 & 25270 et sec.)
 - i. Spill Prevention, Countermeasures and Control (SPCC) Plan requirement
 6. Threshold quantities of regulated substances stored onsite - California Accidental Release Prevention (CalARP) Program (Title 19, Section 2735.4 & HSC Section 25531 et sec.)
 - i. Risk Management Plan requirement for covered processes
4. SAN JOAQUIN COUNCIL OF GOVERNMENT (Contact: [209] 235-0600)
1. This project is subject to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and must provide a Certificate of Payment prior to issuance of any grading or building permits.
5. SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT (Contact: [559] 230-6569)
1. This project is subject to the rules and regulations of the San Joaquin Valley Air Pollution Control District must provide a clearance prior to issuance of any grading or building permits.



Planning Commission Staff Report
Item #3, July 16, 2026
Administrative Use Permit No. PA-2500240
Prepared by: Jacob Pahule

PROJECT SUMMARY

Applicant Information

Property Owner: Roger and Catherine Towers
Project Applicant: Roger Towers

Project Site Information

Project Address: 37100 South Koster Road, Tracy, CA 95304
Project Location: On the east side of South Koster Road, 4,315 feet south of Blewett Road, Tracy.

Parcel Numbers (APN):	265-090-08, -09, & -10	Water Supply:	Private (On-Site)
General Plan Designations:	OS/RC	Sewage Disposal:	Private (On-Site)
Zoning Designations:	AG-40	Storm Drainage:	Private (On-Site)
Project Size:	18.99-acres	100-Year Flood:	No, X (500)
Total Parcel Area:	18.99-acres	Williamson Act:	No
Community:	None	Supervisory District:	5

Environmental Review Information

CEQA Determination: Notice of Exemption (Attachment E, Environmental Document)

Project Description

This project is an Administrative Use Permit Application to permit construction of one Single Family Residence (SFR) on each of three parcels with a General Plan designation of OS/RC (Open Space, Resource Conservation). The proposed SFRs are anticipated to be in the range of 2,000 to 3,000 square feet (excluding attached garages). The application also includes authorization for future development of an accessory dwelling unit (ADU) and accessory structures associated with each residence.

Recommendation

1. Accept the Notice of Exemption (Attachment E),
2. Adopt the Findings for Use Permit (Attachment F),
3. Approve Administrative Use Permit No. PA-2500240, subject to the Conditions of Approval (Attachment G).

This page intentionally left blank.

NOTIFICATION & RESPONSES

(See Attachment B, Agency Response Letters)

Public Hearing Notices

Legal ad for the public hearing published in the Stockton Record: June 26, 2026.

Number of Public Hearing notices: 49

Date of Public Hearing notice mailing: June 26, 2026.

Referrals and Response

Project Referral with Environmental Determination Date: December 19, 2025.

Project Re-Referral with Environmental Determination Date: December 23, 2025.

Agency Referrals	Response Date - Early Consultation	Response Date - Referral
County Departments		
Assessor		
Community Development		
Building Division		
Fire Prevention Bureau		
Code Enforcement		
Public Works		1/26/26
Environmental Health		12/23/25 & 12/29/25
Sheriff's Office		
Supervisor: District 5		
Agricultural Commissioner		
State Agencies		
Fish & Wildlife, Division: 2		
Native American Heritage Commission		
Department of Conservation		
CA Regional Water Quality Control Board		
Farm Bureau		
Federal Agencies		
US Fish & Wildlife		
F.E.M.A.		
US Army Corps		
Federal Emergency Management Agency		
Bureau of Reclamation		

Agency Referrals	Response Date - Early Consultation	Response Date - Referral
Local Agencies		
Tracy Rural Fire District		
Mosquito & Vector Control		
S.J.C.O.G.		12/22/26
New Jerusalem School District		
San Joaquin Air Pollution Control District		
Stanislaus County Planning		
Miscellaneous		
San Luis & Delta-Mendota Water Authority		1/15/26
NDPWD Irrigation District		
Building Industry Association		
CA Tribal TANF Partnership		
Builders Exchange		
Carpenters Union		
United Auburn Indian Community		
CA Valley Miwok Tribe		
CA North Valley Yokuts Tribe		
Sierra Club		
PG&E		1/17/26
Buena Vista Tribe Rancheria		

This page intentionally left blank.

ANALYSIS

Background

Certificate of Compliance No. CC-00-0010 was approved on March 22, 2001, and recognized three legal parcels identified as APNs 265-090-08, 265-090-09, and 265-090-10.

On January 22, 2026, Lot Line Adjustment No. PA-2500324 was approved to adjust the lot lines between the three parcels to the configuration shown on the Site Plan (Attachment A) ranging in size from 3.1 to 12.8 acres in size.

A similar application to develop residential uses was reviewed by the Community Development Department in 2002 (PA-0200306). This application was approved by staff on September 12, 2002, and subsequently appealed to the Planning Commission by the neighboring quarry operators at the time, RMC Pacific Materials, Inc and DSS Company. The Planning Commission denied the application based on the inability to make the required compatibility finding, and the Board of Supervisors upheld this denial on appeal. As a result, the parcels have remained undeveloped.

The project site is located in the MRZ-2 Mineral Resource Zone designation by the California Department of Conservation. This designation is placed on areas that contain identified mineral resources. However, the site is subject to recorded deed restrictions (Attachment C) and existing physical constraints that limit excavation activities, and no mineral extraction is proposed as part of the project. Specifically, the property is subject to the condition that no excavation below elevation 190 feet, as established from mean sea level datum, is permitted on this parcel without prior approval from the Bureau of Reclamation and that all interests and rights in and to coal, oil, gas, and any and all other materials is reserved by the United States. As a result, the site effectively cannot be mined by the property owner.

Surrounding Properties

The project site is located within an area developed with quarries and adjacent to two quarry sites. It is also bounded on the west by South Koster Road and on the east by the Delta Mendota Canal. The Knife River quarry site is located west of the project site, west of South Koster Road and the Cemex quarry site is located east of the project site, east of the Delta Mendota Canal. Two additional quarry sites are located within 1-mile of the site to the west.

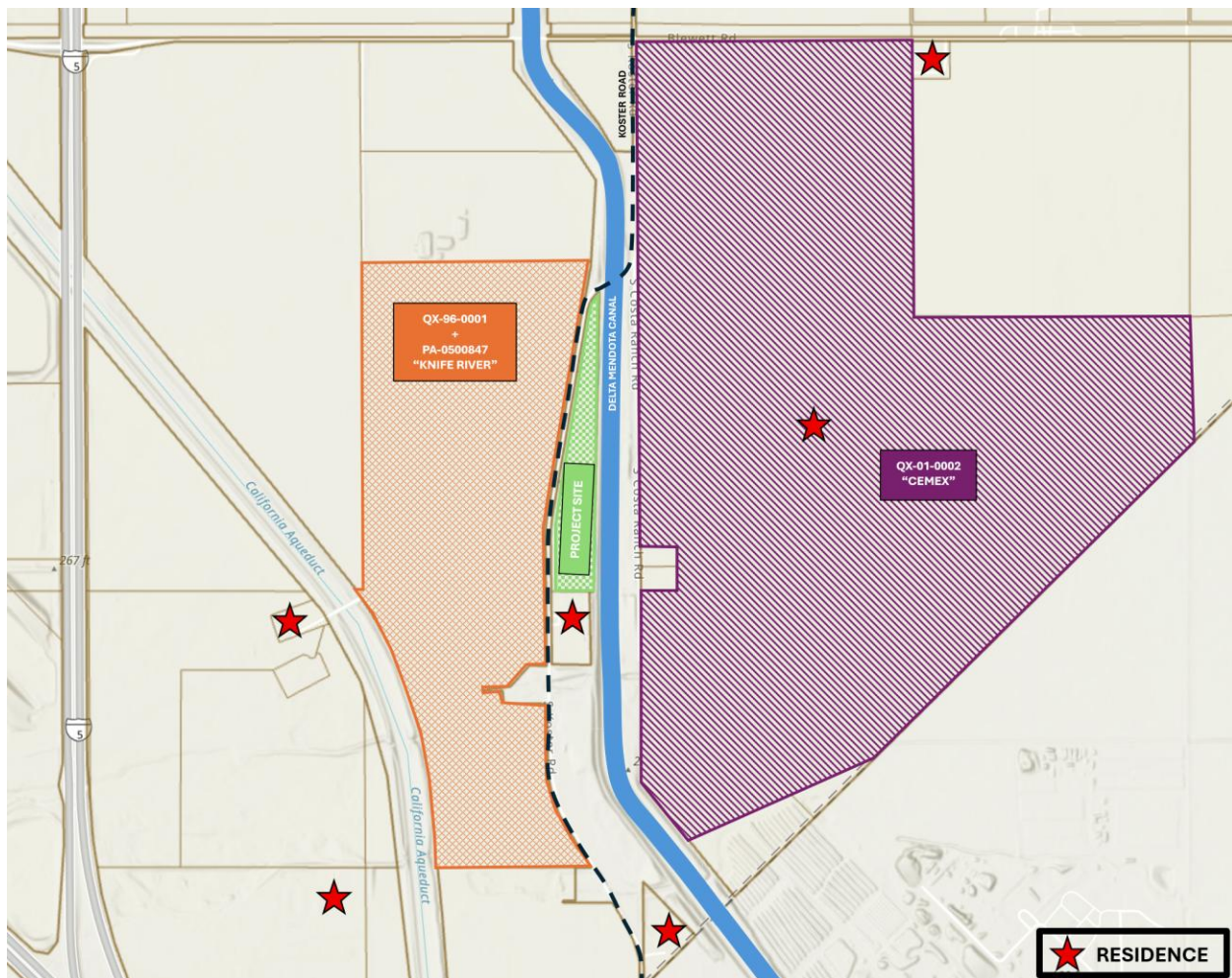
The Knife River quarry was approved originally with Quarry Excavation application No. QX-96-0001. This application was approved by the Board of Supervisors on October 30, 1997, and the site is permitted to operate until 2053. The Knife River site has expanded to encompass a portion of an adjacent Quarry Excavation site permitted under PA-0500847. This application was approved by the Planning Commission on December 17, 2007, and is permitted for operation until 2049.

The Cemex quarry was approved under Quarry Excavation application No. QX-01-0002. This application was approved by the Planning Commission on July 3, 2008. Though mining operations have not commenced on site, an Improvement Plan (PA-1200233) was approved by the Community Development Department on February 6, 2013, that vested the rights to mine. Mining operations are permitted until 2068.

The vicinity also includes agricultural uses with scattered residences, with nine residences located within a 1-mile radius of the project site. Seven of these nine residences are also located in areas designated as MRZ-2 by the Department of Conservation.

A Vicinity Map has been included below to illustrate the location of the project site, South Koster Road, the Delta Mendota Canal, the two neighboring quarry sites, and residences in the area.

VICINITY MAP



Administrative Use Permit

On August 5, 2025, the applicant submitted Administrative Use Permit No. PA-2500240 requesting authorization to construct one single-family residence on each of the three parcels. The proposed residences are anticipated to range from approximately 2,000 to 3,000 square feet in size, excluding attached garages. The application also includes authorization for future development of accessory dwelling units (ADUs) and accessory structures associated with each residence. The project proposes the construction of two new domestic wells, utilization of one existing well, installation of individual septic systems, and private on-site stormwater management improvements.

Development Title Section 9-707.050 requires approval of an Administrative Use Permit for all proposed development within areas designated Open Space/Resource Conservation (OS/RC) on the General Plan Land Use Map, except where another discretionary approval is specified or where a Zoning Compliance Review is authorized for qualifying projects. Staff reviewed the application and determined the necessary findings could be made in the affirmative, including Finding 4 regarding compatibility. Staff's analysis regarding this finding follows:

Land Use Compatibility. The location, size design, and operating characteristics of the proposed use will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood. (Development Title Section 9-804.050(d))

- **This finding can be made because the project proposes construction of three single-family residences and future accessory residential development within a predominantly rural area characterized by agricultural and open space land uses. The proposed residences are anticipated to range from approximately 2,000 to 3,000 square feet in size and will be located on agricultural parcels ranging from approximately 3.1 acres to 12.8 acres in size. Residential development is a permitted use in the AG-40 (General Agriculture, 40-acre**

minimum) zone and exists within the surrounding area. The nearest existing residential use is located on an adjacent parcel and only approximately 250 feet south of the project site. Although the project site is located across South Koster Road from an existing quarry operation, the proposed residences are permitted residential land uses within the AG-40 zoning district and have been adequately reviewed through a discretionary process required by Development Title Section 9-707.050 in the OS/RC General Plan designation. As a result of this review, staff has determined that the location, size, design, and operating characteristics of the proposed use will be compatible with surrounding land uses and will not adversely affect the livability or appropriate development of abutting properties.

- Further, although the site is designated as MRZ-2 by the Department of Conservation and identified as containing mineral resources, the proposed residential development will not impact these resources. Additionally, the project site is restricted from mining operations by an existing Quit Claim Deed recorded on the properties. As a result, the proposed use is compatible with and will not adversely affect neighboring properties or existing mineral resources.

Planning Commission

During project review, DSS Company dba Knife River Construction, owner and operator of the quarry located across South Koster Road from the project site, submitted correspondence dated January 15, 2026, opposing the project (Attachment D), raising concerns regarding mineral resource protection policies, project entitlement procedures, and environmental review. The applicant subsequently submitted a written response dated January 24, 2026, addressing these concerns (Attachment D). An additional letter was received from DSS Company dba Knife River Construction on June 26, 2026, and a subsequent response was received from the applicant on July 1, 2026.

Under Development Title Section 9-804.020(b), Administrative Use Permit applications are generally acted upon by the Zoning Administrator. However, the Zoning Administrator may refer an application to the Planning Commission when a project may generate substantial public controversy or involve significant land use policy considerations. In this case, the application must “be processed as a Conditional Use Permit.” For record keeping purposes, staff has continued to refer to this project as an Administrative Use Permit, however, all Conditional Use Permit processing requirements have been followed, ensuring compliance with Section 9-804.020(b).

Development Title Section 9-804.050 requires the Planning Commission to make all required findings in the affirmative to approve a Use Permit, including consistency with applicable plans, adequacy of public services, site suitability, compatibility with surrounding land uses, and conformance with the Development Title. These findings are the same for both Administrative and Conditional Use Permits. Staff’s analysis of the required findings is provided in Attachment F and staff recommends that all findings can be made in the affirmative.

Environmental Review

The project qualifies for a Class 3 Categorical Exemption pursuant to CEQA Guidelines Section 15303, which applies to the construction of new small structures, including single-family residences in rural and urban settings, where the project involves limited environmental disturbance and no unusual circumstances resulting in a reasonable possibility of a significant environmental effect.

The Community Development Department has reviewed the project for potential applicability of the exceptions to categorical exemptions set forth in CEQA Guidelines Section 15300.2, including the exception related to unusual circumstances and the exception related to the loss of a resource of statewide or regional importance. While the project site is located within an area mapped as a Mineral Resource Zone (MRZ), no mineral extraction is proposed as part of the project, and the project would not preclude the continued availability of mineral resources in the surrounding region. In addition, the proposed project would only be partially located on MRZ land. Due to the proximity of the proposed project to the Delta Mendota Canal, the U.S. Department of Interior and Bureau of Reclamation (“Bureau”) has submitted a letter indicating that

although it possesses mineral rights pursuant to the quitclaim deed entered into with the owners' predecessor, due to the proximity of the property to the Delta Mendota Canal, a limitation on subsurface activities exists related to mining. The Bureau has indicated that it does not object to the proposed project.

Further, additional residences are located within the vicinity of the project and on surrounding property that has been designated as MRZ.

Based on the project scope and site conditions, the project is determined to be exempt from further environmental review pursuant to CEQA Guidelines Section 15303(a). A Notice of Exemption will be filed if the project is approved.

Opposition

During the public review period, DSS Company dba Knife River Construction, owner and operator of the quarry located across South Koster Road from the project site, submitted correspondence in opposition to the proposed project. The letters expresse concerns regarding the project's consistency with mineral resource protection policies, tthe applicability of an Administrative Use Permit, and the applicability of the CEQA categorical exemption identified in the application.

Mineral Resources

With respect to mineral resources, the opposition states that portions of the project site are located within areas identified as Mineral Resource Zone (MRZ-2) and subject to State Mining and Reclamation Act (SMARA) protections and County General Plan mineral resource policies. The letter contends that approval of the proposed residences could preclude future access to or extraction of identified mineral resources and would be inconsistent with applicable mineral conservation policies.

General Plan 2035 states that the County shall require mineral deposits of significant quantity, value, or quality, as identified and updated by the State Division of Mines and Geology reports as MRZ-2 Mineral Resource Zones, to remain in agricultural or open space until the extraction of the resources, unless the immediate area has been committed to other uses (NCR-4.1, Pg. 3.4-8). Consistent with this policy, the site continues to be designated in the General Plan as Open Space/Resource Conservation and zoned AG-40 (General Agriculture, 40-acre minimum). The proposed residential development is consistent with the designation and zoning.

Additionally, although the MRZ-2 designation is intended to protect mineral resources, the project site is subject to recorded deed restrictions and existing physical constraints that limit excavation activities. Specifically, the property is subject to the condition that no excavation below elevation 190 feet, as established from mean sea level datum, is permitted on this parcel without prior approval from the Bureau of Reclamation and that all interests and rights in and to coal, oil, gas, and any and all other materials is reserved by the United States. In addition to these restrictions, the three parcels combined total only 18.99 acres, measure only approximately 400 feet in width at the widest point, and are bounded by South Koster Road to the west and the Delta-Mendota Canal to the east. As a result, the site effectively cannot be mined by the property owner.

In addition, the letter contends that notice, public review and a Statement of Reasons should have been provided in accordance with Public Resources Code Section 2672 and 2673. However, Section 2672(d) provides that such a statement be provided "prior to permitting a use that would threaten the potential to extract minerals in that area..." As discussed in this staff report, the proposed project does not pose such a threat to the extraction of minerals in the area.

Land Use

Regarding land use entitlements, the opposition asserts that approval of single-family residential development on the subject parcels is not appropriately processed through an Administrative Use Permit. The letter further contends that the proposed entitlement pathway is inconsistent with provisions of the County's Development Title governing residential uses within the AG-40 zoning district and Open Space/Resource Conservation land use designation.

Pursuant to Development Title Section 9-707.050, development within OS/RC designated areas requires approval of an Administrative Use Permit, and single-family residential uses are permitted within the AG-40 zoning district. The proposed entitlement process is therefore consistent with County Code. Further, as noted above, this project has been referred to the Planning Commission pursuant to Development Title Section 9-804.020(b) due to opposition, and has been processed accordingly.

California Environmental Quality Act

The opposition also raises concerns regarding CEQA, asserting that the project does not qualify for the categorical exemption identified in the application due to the presence of alleged unusual circumstances related to mineral resource designations and proximity to quarry operations. However, the project consists of the construction of three single-family residences and associated residential infrastructure, which is consistent with CEQA Guidelines Section 15303 (Class 3 Categorical Exemption). The County has reviewed the project for potential exceptions under CEQA Guidelines Section 15300.2 and determined that no unusual circumstances or resource impacts exist that would preclude reliance on the exemption.

Other

The letter additionally references historical land use disputes and prior litigation involving the subject property and quarry operations in the surrounding area. These matters are historical and informational in nature, and are not directly related to the proposed entitlements or applicable development standards under review for the current application.

This page intentionally left blank.

RECOMMENDATION

It is recommended that the Planning Commission:

1. Accept the Notice of Exemption (Attachment E),
2. Adopt the Findings for Use Permit (Attachment F),
3. Approve Administrative Use Permit No. PA-2500240, subject to the Conditions of Approval (Attachment G).

Attachments:

Attachment A - Site Plan
Attachment B - Agency Response Letters
Attachment C - Quit Claim Deed
Attachment D - Supplemental Documents
Attachment E - Environmental Document
Attachment F - Findings for Administrative Use Permit
Attachment G - Conditions of Approval

This page intentionally left blank.



SAN JOAQUIN
—COUNTY—
Greatness grows here.

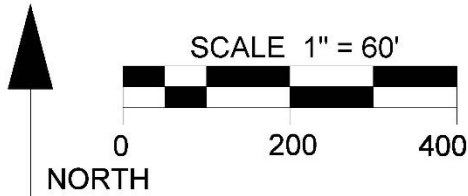
Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment A **Site Plan**

This page intentionally left blank.

TOWERS DEVELOPMENT



NOTES:

1. Property owner: Roger Towers
2. There are no structures on the property.
3. A 400' deep well exists on Parcel 1.
4. An application for lot line adjustment was recently submitted. This property is currently identified by APN#s: 265-090-08, 09, 10.
5. The site is flat with the exception of a 4' mound located at the southeast corner of the site. The property otherwise slopes down to the southeast at 1.5%.
6. Onsite sewage disposal leach field is based on worst case scenario of clay pan. Prior testing reveals soils are well drained. It is expected that final design will require substantially less sq. footage. Per conversation with EHD, leachfield setback minimum from canal is 100'.
7. The Mineral Resource Zone 2 adopted by the State Geology Board is located 300' from the center of the canal. See 2012 Special Report.
8. Excavation of this property is prohibited by deed restrictions held in favor of the U.S. Bureau of Reclamation. The identification of the MRZ-2 boundary line is not intended as a restriction on the final location of buildings.

S. KOSTER RD.

LOT 1
12.8 AC.

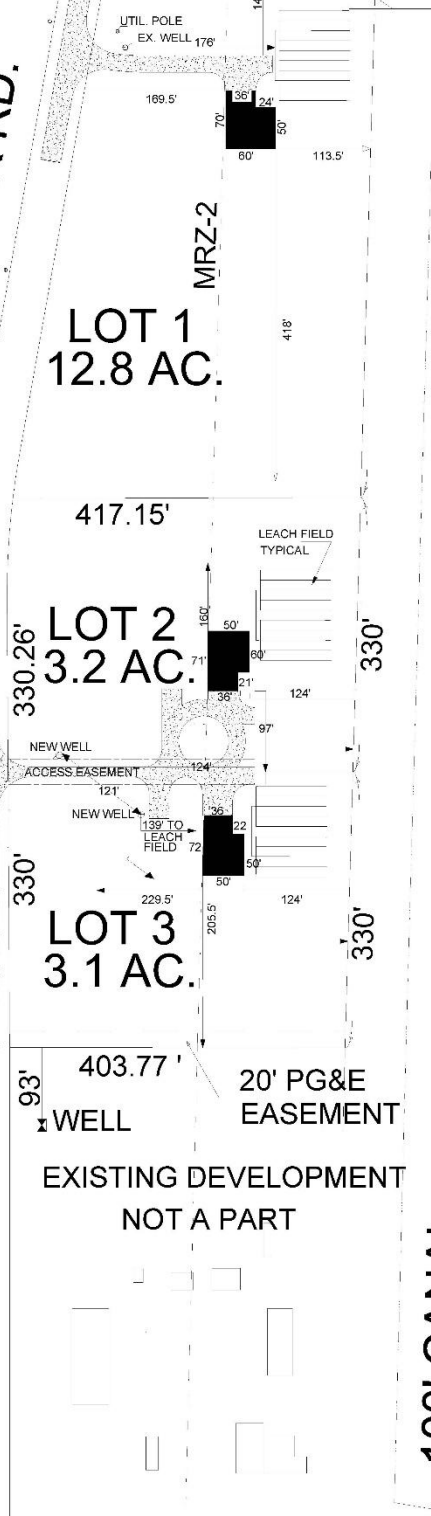
LOT 2
3.2 AC.

LOT 3
3.1 AC.

EXISTING DEVELOPMENT
NOT A PART

100' CANAL

100' CANAL



This page intentionally left blank.



SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment B **Agency Response** **Letters**

This page intentionally left blank.



SAN JOAQUIN
—COUNTY—
Greatness grows here.



Department of Public Works

Fritz Buchman, Director

Alex Chetley, Deputy Director - Development

Kristi Rhea, Deputy Director - Administration

David Tolliver, Deputy Director - Operations

Najee Zarif, Deputy Director - Engineering

January 26, 2026

MEMORANDUM

TO: Community Development Department
CONTACT PERSON: Jacob Pahule

FROM: George Montross, Development Services Engineer *gm*
Development Services Division

SUBJECT: PA-2500240 (A); An Administrative Use Permit application to permit construction of one Single Family Residence (SFR) on each of three parcels with a General Plan designation of OS/RC (Open Space, Resource Conservation). The proposed parcels (PA-2500324) are proposed lots of Parcel 1 will contain 14.10 acres, Parcel 2 will contain 2.39 acres, and Parcel 3 will contain 2.51 acres. The proposed SFR's homes are anticipated to be in the range of 2,000 to 3,000 square feet (not including attached garages). All three parcels will have access from the County-maintained South Koster Road. Two new domestic wells will be constructed, and one existing well will be utilized. Domestic wastewater systems will be served by individual septic tank and leach field systems. Stormwater will be managed privately on-site. None of the parcels are under a Williamson Act Contract; located on the East side of South Koster Road, 4,315' South of Blewett Road.
(Supervisory District 5)

OWNER: Roger & Catherine C. Towers

APPLICANT: Same

ADDRESS: 37100 S. Koster Road, Tracy

APN: 265-090-08, -09, -10

INFORMATION:

The site is not currently located within a Federal Emergency Management Agency Designated Flood Hazard Area.

Koster Road has an existing and planned right-of-way width of 50 feet.

RECOMMENDATIONS:

- 1) An encroachment permit shall be required for all work within road right-of-way. (Note: Driveway encroachment permits are for flatwork only – all vertical features, including but not limited to fences, walls, private light standards, rocks, landscaping and cobbles are not allowed in the right-of-way.) (Development Title Sections 9-607.020 and 9-607.040)

1810 East Hazelton Avenue | Stockton, California 95205 | T 209 468 3000 | F 209 468 2999

Follow us on Facebook @ PublicWorksSJC Visit our website: www.sjgov.org/pubworks

- 2) The driveway approach shall be improved in accordance with the requirements of San Joaquin County Improvement Standards Drawing No. 17 prior to issuance of the occupancy permit. (Development Title Section 9-607.040)
- 3) The Traffic Impact Mitigation Fee shall be required for this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. The fee shall be automatically adjusted July 1 of each year by the Engineering Construction Cost Index as published by the Engineering News Record. (Resolutions R-00-433)
- 4) The Regional Transportation Impact Fee shall be required for this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. (Resolution R-06-38)
- 5) The developer shall provide drainage facilities in accordance with the San Joaquin County Development Standards. Retention basins shall be fenced with six (6) foot high chain link fence or equal when the maximum design depth is 18 inches or more. Required retention basin capacity shall be calculated and submitted along with a drainage plan for review and approval, prior to release of building permit. (Development Title Section 9-606)
- 6) A copy of the Final Site Plan shall be submitted prior to release of building permit.
- 7) This project is subject to the NPDES Region-Wide Permit requirements and shall comply with the following conditions. Prior to release of the building permit, plans and calculations shall be submitted and approved by the Public Works Department – Water Resources Division (209-468-9360):
 - a) Treatment: A registered professional engineer shall design the site to treat the 85th percentile storm as defined in the County's 2023 Storm Water Quality Control Criteria Plan (SWQCCP).
 - b) Hydromodification: A registered professional engineer shall design the site to comply with the volume reduction requirement outlined in the County's 2023 SWQCCP
 - c) Trash: A registered professional engineer shall design the site to comply with the trash control requirement outlined in the County's 2023 SWQCCP.
- 8) Prior to release of the building permit, the owner shall enter into an agreement with San Joaquin County for post-construction maintenance of stormwater quality facilities.
- 9) Prior to release of the building permit the applicant shall submit a Storm Water Quality Control Plan (SWQCP) to Public Works that complies with all requirements of the 2023 SWQCCP
- 10) Prior to release of the building permit the applicant shall submit the Storm Water Pollution Prevention Plan (SWPPP) to Public Works. A copy of the approved SWPPP and all required records, updates, test results and inspection reports shall be maintained on the construction site and be available for review upon request.
- 11) Applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) and comply with the State "General Permit for Storm Water Discharges

Associated with Construction Activity". The Waste Discharge Identification Number (WDID), issued by SWRCB, shall be submitted to Public Works prior to release of the building permit. Contact the SWRCB at 1-866-563-3107 for further information.

GM:GG



Environmental Health Department

Jasjit Kang, REHS, Director

Muniappa Naidu, REHS, Assistant Director

PROGRAM COORDINATORS

Jeff Carruesco, REHS, RDI

Willy Ng, REHS

Steven Shih, REHS

Elena Manzo, REHS

Natalia Subbotnikova, REHS

December 29, 2025

To: San Joaquin County Community Development Department
Attention: Jacob Paule

From: Aldara Salinas; (209) 616-3019 
Environmental Health Specialist

RE: **PA-2500240 (A), Revised Referral, SU-2500954**
37100 S. Koster Rd., Tracy, APN: 265-090-08, -09, -10

The following requirements have been identified as pertinent to this project. Other requirements may also apply. These requirements cannot be modified.

1. A soil suitability and nitrate loading study incorporating proposed staff and customer use shall be submitted for each parcel to the Environmental Health Department, indicating that the area is suitable for septic system usage. The studies must be approved by the Environmental Health Department prior to issuance of building permit(s). (San Joaquin County Development Title, Section 9-604.010(d)). The fee will be based on the current schedule at the time of payment.

The sewage disposal system shall comply with the onsite wastewater treatment systems standards of San Joaquin County prior to approval. A percolation test conducted in accordance with the E.P.A. Design Manual - Onsite Wastewater and Disposal Systems is required for each parcel. The fee will be based on the current schedule at the time of payment.

2. Prior to issuance of building permit, submit to the Environmental Health Department revised site plans for each parcel, showing the location and configuration of any existing and proposed sewage disposal systems, along with the area required to be reserved for future sewage disposal repair/replacement (area for 100% sewage disposal replacement). The plans shall include the design calculations, including the maximum number of persons the sewage disposal system is proposed to serve. In addition, show on revised plans that the disposal field area will be barricaded so it cannot be driven over, parked on, or used as a storage area. This disposal field area must be used for that specific purpose only, and it cannot contain any underground utility lines (San Joaquin County Development Title, Section 9-605.010(c)(3)(5)).
3. Construction of an individual sewage disposal system(s) for each parcel under permit and inspection by the Environmental Health Department is required at the time of development based on the **Soil Suitability/ Nitrate Loading Study findings** (San Joaquin County Development Title, Section 9-605.010).

1868 E. Hazelton Avenue | Stockton, California 95205 | T 209 468-3420 | F 209 468-3877 | www.sjgov.org/ehd

4. Construction of an individual domestic water well for each parcel, under permit and inspection by the Environmental Health Department is required at the time of development (San Joaquin County Development Title, Section 9-601.010 (b)).
5. Any existing wells or septic systems to be abandoned shall be destroyed under permit and inspection by the EHD (San Joaquin County Development Title, Section 9-605.010 & 9-601.020)
6. Any geotechnical drilling shall be conducted under permit and inspection by The Environmental Health Department (San Joaquin County Development Title, Section 9-601.010(b) and 9-601.020(i)).



SAN JOAQUIN
— COUNTY —
Greatness grows here.

Environmental Health Department

Jasjit Kang, REHS, Director

Munlappa Naidu, REHS, Assistant Director

PROGRAM COORDINATORS

Jeff Carruesco, REHS, RDI

Willy Ng, REHS

Steven Shih, REHS

Elena Manzo, REHS

Natalia Subbotnikova, REHS

December 23, 2025

To: San Joaquin County Community Development Department
Attention: Francisco Prado

From: Aldara Salinas; (209) 616-3019 
Environmental Health Specialist

RE: **PA-2500240 (A, LA), Neighborhood Referral SU-2500953, -954**
37100 S. Koster Rd., Tracy, APN: 265-090-08, -09, -10

The following requirements have been identified as pertinent to this project. Other requirements may also apply. These requirements cannot be modified.

1. A soil suitability and nitrate loading study incorporating proposed staff and customer use shall be submitted for each parcel to the Environmental Health Department, indicating that the area is suitable for septic system usage. The studies must be approved by the Environmental Health Department prior to issuance of building permit(s). (San Joaquin County Development Title, Section 9-604.010(d)). The fee will be based on the current schedule at the time of payment.

The sewage disposal system shall comply with the onsite wastewater treatment systems standards of San Joaquin County prior to approval. A percolation test conducted in accordance with the E.P.A. Design Manual - Onsite Wastewater and Disposal Systems is required for each parcel. The fee will be based on the current schedule at the time of payment.

2. Prior to issuance of building permit, submit to the Environmental Health Department revised site plans for each parcel, showing the location and configuration of any existing and proposed sewage disposal systems, along with the area required to be reserved for future sewage disposal repair/replacement (area for 100% sewage disposal replacement). The plans shall include the design calculations, including the maximum number of persons the sewage disposal system is proposed to serve. In addition, show on revised plans that the disposal field area will be barricaded so it cannot be driven over, parked on, or used as a storage area. This disposal field area must be used for that specific purpose only, and it cannot contain any underground utility lines (San Joaquin County Development Title, Section 9-605.010(c)(3)(5)).
3. Construction of an individual sewage disposal system(s) for each parcel under permit and inspection by the Environmental Health Department is required at the time of development based on the **Soil Suitability/ Nitrate Loading Study findings** (San Joaquin County Development Title, Section 9-605.010).

1868 E. Hazelton Avenue | Stockton, California 95205 | T 209 468-3420 | F 209 468-3877 | www.sjgov.org/ehd

4. Construction of an individual domestic water well for each parcel, under permit and inspection by the Environmental Health Department is required at the time of development (San Joaquin County Development Title, Section 9-601.010 (b)).
5. Any existing wells or septic systems to be abandoned shall be destroyed under permit and inspection by the EHD (San Joaquin County Development Title, Section 9-605.010 & 9-601.020)
6. Any geotechnical drilling shall be conducted under permit and inspection by The Environmental Health Department (San Joaquin County Development Title, Section 9-601.010(b) and 9-601.020(i)).



S J C O G, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0574 • Email: boyd@sjcog.org

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

SJMSCP RESPONSE TO LOCAL JURISDICTION (RTLJ) ADVISORY AGENCY NOTICE TO SJCOG, Inc.

To: Jacob Pahule, San Joaquin County, Community Development Department

From: Laurel Boyd, SJCOG, Inc.

Phone: (209) 235-0574

Email: boyd@sjcog.org

Date: December 22, 2025

Local Jurisdiction Project Title: PA-2500240 (A, LA)

Assessor Parcel Number(s): 265-090-08, -09, -10

Local Jurisdiction Project Number: PA-2500240 (A, LA)

Total Acres to be converted from Open Space Use: Unknown

Habitat Types to be Disturbed: Natural Habitat Land

Species Impact Findings: Findings to be determined by SJMSCP biologist.

Dear Mr. Pahule:

SJCOG, Inc. has reviewed the application referral for PA-2500240 (A, LA). This project consists of an Administrative Use Permit and Lot Line Adjustment application to permit construction of one Single Family Residence (SFR) on each of three parcels with a General Plan designation of OS/RC (Open Space, Resource Conservation). The proposed parcels (PA-2500324) are proposed lots of Parcel 1 will contain 14.10 acres, Parcel 2 will contain 2.39 acres, and Parcel 3 will contain 2.51 acres. The proposed SFR's homes are anticipated to be in the range of 2,000 to 3,000 square feet (not including attached garages). All three parcels will have access from the County-maintained South Koster Road. Two new domestic wells will be constructed and one existing well will be utilized. Domestic wastewater systems will be served by individual septic tank and leach field systems. Stormwater will be managed privately onsite. The project site is on the east side of South Koster Road, 4,315 feet south of Blewett Road (APN/Address: 265-090-08 to -10 / 37100 S. Koster Road, Tracy).

San Joaquin County is a signatory to San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Participation in the SJMSCP satisfies requirements of both the state and federal endangered species acts and ensures that the impacts are mitigated below a level of significance in compliance with the California Environmental Quality Act (CEQA). The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measures are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP. Although participation in the SJMSCP is voluntary, Local Jurisdiction/Lead Agencies should be aware that if project applicants choose against participating in the SJMSCP, they will be required to provide alternative mitigation in an amount and kind equal to that provided in the SJMSCP.

At this time, the applicant is requesting a Lot Line Adjustment with no ground disturbance. Any future ground disturbing activities (e.g. roads, curb, gutter, electrical, water, etc.) or any physical structures that require ground disturbance on this or subsequent divided parcels will be subject to participate in the SJMSCP before ANY ground disturbance occurs and should be resubmitted to this agency. Current or future owners of this-or subdivided properties should be made aware of the conditions that are placed by the SJMSCP on future development on the created parcels.

This Project is subject to the SJMSCP. This can be up to a **90-day** process and it is recommended that the project applicant contact SJMSCP staff as early as possible. It is also recommended that the project applicant obtain an information package. <http://www.sjcog.org>

Please contact SJMSCP staff regarding completing the following steps to satisfy SJMSCP requirements:

- Schedule a SJMSCP Biologist to perform a pre-construction survey prior to any ground disturbance
- SJMSCP Incidental Take Minimization Measures and mitigation requirement:
 - I. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant

2 | S J C O G , I n c .

must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.

2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

- Receive your Certificate of Payment and release the required permit

It should be noted that if this project has any potential impacts to waters of the United States [pursuant to Section 404 Clean Water Act], it would require the project to seek voluntary coverage through the unmapped process under the SJMSCP which could take up to 90 days. It may be prudent to obtain a preliminary wetlands map from a qualified consultant. If waters of the United States are confirmed on the project site, the Corps and the Regional Water Quality Control Board (RWQCB) would have regulatory authority over those mapped areas [pursuant to Section 404 and 401 of the Clean Water Act respectively] and permits would be required from each of these resource agencies prior to grading the project site.

If you have any questions, please call (209) 235-0574.



S J C O G , I n c .

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0574 • Email: boyd@sjcog.org

SJMSCP HOLD

TO: Local Jurisdiction: Community Development Department, Planning Department, Building Department, Engineering Department, Survey Department, Transportation Department, Public Works Department,
Other:

FROM: Laurel Boyd, SJCOG, Inc.

**DO NOT AUTHORIZE SITE DISTURBANCE
DO NOT ISSUE A BUILDING PERMIT
DO NOT ISSUE _____ FOR THIS PROJECT**

The landowner/developer for this site has requested coverage pursuant to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). In accordance with that agreement, the Applicant has agreed to:

- 1) SJMSCP Incidental Take Minimization Measures and mitigation requirement:
 1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
 2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
 3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.
- Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

Project Title: PA-2500240 (LA, A)

Landowner/Applicant: Roger & Catherine C. Towers

Assessor Parcel #s: 265-090-08 to -10

Local Jurisdiction Contact: Jacob Pahule

The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measures are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP.



Pacific Gas and Electric Company
PGEPlanReview@pge.com
Land Management
300 Lakeside Drive
Oakland, CA 94612

January 17, 2026

Re: Gas and Electric Transmission and Distribution

Dear El Dorado County Planning,

Thank you for providing PG&E the opportunity to review your proposed plans for PA-2500240 (A, LA). Our review indicates the proposed work and/or improvements do not appear to directly interfere with any of PG&E's existing facilities or land rights.

Please note, this is our preliminary review and PG&E may provide additional comments in the future as the project progresses or if additional information is provided. If there are subsequent modifications made to the design, we ask that the plans be resubmitted for review to the email address listed below.

If PG&E gas and/or electric service are needed, please submit an application through PG&E's Your Project Portal: [Sign In \(yourprojects-pge.com\)](https://yourprojects-pge.com).

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of two (2) working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

If you have any questions regarding this response, please contact me at (877) 259-8314 or pgeplanreview@pge.com

Sincerely,

PG&E Plan Review Team
Land Management



San Luis & Delta-Mendota Water Authority Comments

Project		S. Koster Rd Tower Development			
Review Date		1/14/2026			
Comment No.	Review By	Dwg./Page/Section No.	Comment	Resolution	Status
1	RK	PG1	The project site is subject to a deed restriction held in favor of the United States Bureau of Reclamation (USBR). Any use, grading, construction, or encroachment within the restricted area requires prior written approval from the Bureau of Reclamation. Water Authority review comments do not constitute consent or authorization under the deed restriction. No engineering review by the Water Authority will occur until the applicant obtains written approval from USBR.		



Applicant Number PA-2500240 (A)-Comments

From Jessie Ixta <jessie.ixta@sldmwa.org>

Date Thu 1/15/2026 2:46 PM

To Pahule, Jacob [CDD] <jpahule@sjgov.org>

Cc Rehman Khan <rehman.khan@sldmwa.org>

 2 attachments (561 KB)

011226 Comments (Send this).xlsx; DMC MP25.02-RLetter.pdf;

Mr. Pahule,

The San Luis & Delta-Mendota Water Authority (SLDMWA) appreciates the opportunity to provide comments regarding the proposed private Single-Family Residence (SFR) Towers Development adjacent to the Delta-Mendota Canal (DMC) in Tracy, CA, submitted by Roger and Catherine C. Towers. The proposed development may encroach upon and/or is located adjacent to the DMC and its right-of-way (ROW). The DMC is an essential component of the federal Central Valley Project, conveying water for agricultural, municipal, industrial, and environmental purposes. Ensuring the continued safe and reliable operation of the DMC is vital to the communities and ecosystems that it supports, thus I have attached our comments regarding this project.

Regards,



Jessie Ixta

Senior Engineering Technician/UAS Pilot

o (209) 832-6222

m (209) 204-0298

jessie.ixta@sldmwa.org

sldmwa.org

This page intentionally left blank.



SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment C **Quit Claim Deed**

This page intentionally left blank.

89026462

SAN JOAQUIN COUNTY
RECORDER'S OFFICE
YVONNE I. UDALL

3

89 MAR 27 PM 1:27

RECORDED AT REQUEST OF

Sam Tusso
FEE 8-1

SAM TUSO
27369 S. LAMMERS
TRACY, CA 95376

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
CENTRAL VALLEY PROJECT

DOCUMENTARY TRANSFER TAX
County of San Joaquin
57.75

Delta-Mendota Canal
Unit No. C-19B and C-25
3:7:9

DOCUMENTARY TRANSFER TAX *57.75*
computed on full value of property conveyed.
computed on full value less liens and
encumbrances remaining at time of sale.

QUITCLAIM DEED

Salvatore Sam Tusso
Signature of Declarant First Name

FOR VALUE RECEIVED, and in accordance with the Act of February 2, 1911, (36 Stat. 895, 43 U.S.C. 374), the UNITED STATES OF AMERICA, the United States, does hereby quitclaim, release and convey to Salvatore Tusso, also known as Sam Tusso, and Marie F. Tusso, husband and wife, their heirs, executors, administrators and assigns, all of its right, title and interest in a tract of land in the E 1/2 sec. 5 and the NE 1/4 sec. 8, T. 4 S., R. 6 E., M.D.M., County of San Joaquin, State of California, containing an area of 25.35 acres, more or less, and more particularly described in Exhibit "A" attached hereto and by reference made a part hereof.

SUBJECT TO all easements or rights-of-way existing at time of sale or of record in favor of the public or third parties; and

SUBJECT TO restrictions contained in Section 3(b) of Executive Order 11988 dated May 24, 1977, relating to Floodplain Management; and

SUBJECT TO the condition that no excavation below elevation 190 feet, as established from mean sea level datum, is permitted on this parcel without prior approval by the Bureau of Reclamation. Plans for such excavation must be signed by a registered Soils or Geotechnical Engineer prior to submittal to Reclamation for approval; and

SUBJECT TO the condition that no tailwater or other waste water from the parcel described herein be permitted to enter the Delta-Mendota Canal; and

There shall be reserved to the United States all interests and rights in and to coal, oil, gas and any and all other minerals.

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA has caused this deed to be executed this *9th* day of *March*, 19*89*.

THE UNITED STATES OF AMERICA

Gary T. Sacall
Assistant Regional Supervisor of Water
and Power Resources Management
Mid-Pacific Region
Bureau of Reclamation

27369 S. LAMMERS
TRAC. CH 45376

89026462

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
CENTRAL VALLEY PROJECT

Delta-Mendota Canal
Unit No. C-198 and C-25
3:7:9

✓ FURTHER TRANSFER TAX \$ 511
- duties or full value of property conveyed,
- computed on full value less liens and
- encumbrances existing at time of sale.
Signature of Declarant Firm Name

QUITCLAIM DEED

FOR VALUE RECEIVED, and in accordance with the Act of February 2, 1911, (36 Stat. 895, 43 U.S.C. 374), the UNITED STATES OF AMERICA, the United States, does hereby quitclaim, release and convey to Salvatore Tusso, also known as Sam Tusso, and Marie P. Tusso, husband and wife, their heirs, executors, administrators and assigns, all of its right, title and interest in a tract of land in the E 1/2 sec. 5 and the NE 1/4 sec. 8, T. 4 S., R. 6 E., M.D.M., County of San Joaquin, State of California, containing an area of 25.35 acres, more or less, and more particularly described in Exhibit "A" attached hereto and by reference made a part hereof.

SUBJECT TO all easements or rights-of-way existing at time of sale or of record in favor of the public or third parties; and

SUBJECT TO restrictions contained in Section 3(b) of Executive Order 11988 dated May 24, 1977, relating to Floodplain Management; and

SUBJECT TO the condition that no excavation below elevation 190 feet, as established from mean sea level datum, is permitted on this parcel without prior approval by the Bureau of Reclamation. Plans for such excavation must be signed by a registered Soils or Geotechnical Engineer prior to submittal to Reclamation for approval; and

SUBJECT TO the condition that no tailwater or other waste water from the parcel described herein be permitted to enter the Delta-Mendota Canal; and

There shall be reserved to the United States all interests and rights in and to coal, oil, gas and any and all other minerals.

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA has caused this deed to be executed this 9th day of March, 1989.

I CERTIFY UNDER PENALTY OF PERJURY THAT THIS IS A TRUE AND CORRECT COPY OF THE ATTACHED DOCUMENT WHICH IS PHOTOGRAPHICALLY UNPRODUCIBLE.

Salvatore Sam Tusso

THE UNITED STATES OF AMERICA

Gary T. Sachell
Assistant Regional Supervisor of Water
and Power Resources Management
Mid-Pacific Region
Bureau of Reclamation

A tract of land in the east half (E 1/2) of Section Five (5) and the northeast quarter (NE 1/4) of Section Eight (8), all in Township Four (4) South, Range Six (6) East, Mount Diablo Meridian, County of San Joaquin, State of California, said tract of land also being a portion of the real property described in the Grant Deeds from Vincent Traina, et al., recorded March 29, 1948, in Volume 1131 at page 79 and from Mollie Marie Kaspo, recorded May 4, 1948 in Volume 1106 at page 365, both of the Official Records of said county, containing an area of 25.35 acres, more or less, and described as follows:

Beginning at a point in the easterly right-of-way boundary of Koster Road, distant North-55°36'21" West, ~~434.09 feet from a~~ concrete monument marking the east quarter corner of said Section 5; thence from said point of beginning along said easterly right-of-way boundary the following five (5) courses: (1) Beginning in a curve concave to the southeast having a radius of 275.0 feet and at which point a radial line bears North 34°54'03" West; thence southerly 217.58 feet along said curve through a central angle of 45°19'57"; (2) thence South 09°46' West 2034.3 feet to the beginning of a curve concave to the east having a radius of 975.0 feet; (3) thence southerly 175.84 feet along said curve through a central angle of 10°29'; (4) thence South 00°34' East 536.0 feet to a point in the section line common to said Sections 5 and 8; and (5) thence continuing South 00°34' East 701.15 feet; thence leaving said easterly right-of-way boundary South 89°06' East 383.92 feet; thence North 00°58'17" East 706.55 feet to a point on said common section line distant therealong 445.22 feet from a concrete monument with brass cap marking the southeast corner of said Section 5; thence North 01°16'53" East 2896.15 feet, more or less, to the point of beginning.

Portion of Units C-19B and C-25
Delta-Mendota Canal

STATE OF CALIFORNIA)
) ss.
County of Sacramento)

On this 9TH day of March, 19 89, before me,

Cathy S. Galletta _____, a Notary Public in and for the County and
State aforesaid, personally appeared, Gary T. Sackett _____,

Assistant Regional Supervisor of Water and Power Resources Management,
Bureau of Reclamation, Mid-Pacific Region, personally (known to me) (pmsw) ~~to me on the basis of satisfactory evidence~~ to be the person whose name is
subscribed to the within instrument, and acknowledged that he executed the
same on behalf of the United States.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year in this certificate first above written.



Cathy S. Galletta
Notary Public in and for the County of
Sacramento, State of California

This page intentionally left blank.



SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment D **Supplemental** **Documents**

This page intentionally left blank.

June 26, 2026

VIA ELECTRONIC MAIL

Kirin Virk, Esq.
Office of the County Counsel, County of San Joaquin
44 North San Joaquin Street, Suite 679
Stockton, CA 95202
kvirk@sjgov.org

*Re: Opposition to Application Referral for Proposed Project at 37100 S. Koster Rd.,
Tracy, CA; Application Number PA-2500240*

Dear Ms. Virk:

We submit this opposition letter on behalf of our client, DSS Company dba Knife River Construction (“Knife River”), regarding the proposed “Project” at 37100 S. Koster Rd., Tracy, CA, Application Number PA-2500240. As discussed below, our client has serious concerns regarding the Project’s consistency with applicable land use regulations, compliance with the Surface Mining and Reclamation Act (“SMARA”), and compliance with the California Environmental Quality Act (“CEQA”).

The record raises substantial procedural and substantive deficiencies, including unresolved questions regarding General Plan consistency, compliance with County zoning requirements, protection of mapped mineral resources, and the legal basis for the proposed residential use.

As a procedural matter, these issues warrant elevation of the Project application to the Planning Commission for a more comprehensive level of review. They also require compliance with the public review periods mandated under SMARA and CEQA. Accordingly, the County cannot lawfully take action on the application at, what we understand to be a scheduled hearing on July 23, 2026, and should not approve the Project unless and until these deficiencies have been fully addressed through the review process required by applicable law.

Factual Background

Knife River owns and operates a quarry in the Vernalis area of San Joaquin County (“County”), located adjacent to the Property owned by Roger and Catherine Towers (“Towers”) that is the subject of the Project, which proposes the construction of single-family residences on each of three parcels located in the Vernalis area. The parcels, designated as San Joaquin County Assessor Parcel Numbers (APNs) 265-090-08, 265-090-09, and 265-090-10 (collectively, the “Property”), consist of approximately 19 acres on the east side of Koster Road, directly across from the Knife River Vernalis Quarry (“Quarry”) and adjacent to the Delta-Mendota Canal. The

Property has a General Plan designation of Open Space, Resource Conservation and is zoned AG-40 (General Agricultural, 40-acre minimum).

Prior to submitting this opposition, Knife River made good-faith efforts to resolve the parties' concerns regarding land use compatibility through private agreement. On behalf of Knife River, our office engaged in discussions with Towers regarding the incompatible and potentially conflicting land uses proposed at the Project site and adjacent Quarry. Those discussions focused on identifying mutually acceptable measures to address land use conflicts and establish a framework governing the parties' respective uses of their properties. In furtherance of those efforts, a proposal for reciprocal covenants intended to resolve the disputes and avoid the need for further administrative proceedings was presented to Towers. Despite these good-faith efforts, Towers rejected our client's proposal and declined to agree to terms that would adequately address the significant land use compatibility concerns raised by the Project. As a result, our client has been left with no alternative but to pursue its objections through the County's review process.

Argument

Knife River has serious concerns regarding both the procedural posture of the proposed Project and its substantive compliance with applicable law. As an initial matter, the Project involves significant land use policy determinations and discretionary considerations that require review and approval by the Planning Commission through a Conditional Use Permit ("CUP"), rather than an Administrative Use Permit.

In addition, because the Project proposes a potentially incompatible use on lands containing designated protected mineral resources, the County must ensure compliance with the independent public review and hearing requirements imposed by the Surface Mining and Reclamation Act ("SMARA") before taking any action on the application. The County should not proceed to hearing until all procedural requirements have been satisfied. Further, the County should elevate the application for Planning Commission consideration.

Separate from the procedural deficiencies, the Project raises substantial substantive concerns. The Project does not satisfy the findings required for approval of a Use Permit, including those relating to consistency with applicable land use policies and the protection of mineral resources under SMARA and conformance to the San Joaquin County Development Title ("Zoning Code"). In addition, the Project is not exempt from review under the California Environmental Quality Act ("CEQA"). Even if the County were to conclude that a categorical exemption could otherwise apply, the unusual circumstances exception precludes reliance on the exemption because the Project is proposed on nonconforming parcels has the potential to result in significant impacts to designated mineral resources. For these reasons, the County should refrain from taking any action to approve the Project unless and until these procedural and substantive deficiencies have been fully evaluated and resolved.

1. The County Must Elevate the Project for Review by the Planning Commission and Ensure Compliance with SMARA's Mandatory Procedural Requirements Before Taking Any Action on the Application.

A. The Project Application Should Be Processed as a Conditional Use Permit.

As a threshold procedural matter, the Project must be referred to the Planning Commission and processed as a Conditional Use Permit because it involves significant land use policy determinations and has the potential to generate substantial public controversy within the meaning of Section 9-804.020(b) of the Zoning Code. San Joaquin County Development Title, Section 9-804-020(b) states:

The Zoning Administrator must approve, conditionally approve, or deny applications for Administrative Use Permits based on consideration of the requirements of this Title. The Zoning Administrator may, at his/her discretion, refer any application for an Administrative Use Permit for a project that may generate substantial public controversy or involve significant land use policy decisions to the Planning Commission for a decision rather than acting on it himself/herself. In that case, the application must be processed as a Conditional Use Permit.

[San Joaquin County Development Title, Section 9-804-020(b), emphasis added]

The proposed Project presents precisely the type of significant land use policy issues and potential public controversy that warrant referral to the Planning Commission under Section 9-804.020(b). Here, the Project has generated objections from neighboring property owners and other interested parties regarding its location, its potential impacts on designated mineral resources. These concerns raise issues that extend beyond routine project review and implicate broader County policies regarding resource conservation, agricultural land use, and the protection of critical infrastructure.

In addition, substantial questions exist regarding the Project's consistency with the County's General Plan and Zoning Code. The Project's application appears to rely on a selective reading of certain General Plan and Zoning Code provisions while disregarding others that are directly relevant to the context for permitted land uses and the policies regarding protection of mineral resources and the long-term preservation of agricultural lands. General Plan consistency must be evaluated based on the General Plan as a whole, not by isolating individual provisions that support a desired outcome while ignoring conflicting provisions. Given the presence of MRZ-2 classified lands on portions of the Property and the competing resource protection policies under the General Plan implicated by the Project, these issues warrant review by the Planning Commission rather than administrative approval.

Further, each of the three parcels comprising the Property are nonconforming lots for the AG-40 zone for having less than the minimum lot size. The County's Zoning Code expressly provides that nonconforming uses may not be enlarged, expanded, intensified, or extended beyond the scope of the legally established nonconformity. (San Joaquin County Development Title,

Section 9-405.050.) The proposed Project appears to constitute an expansion and intensification of an existing nonconforming use and therefore cannot be approved. At a minimum, the County must evaluate whether the Project exceeds the permissible scope of the existing nonconformity and whether the required findings can be made for such an expansion.

The public controversy surrounding the Project, the unresolved questions regarding General Plan consistency, the potential impacts to MRZ-2 classified mineral resources, and the apparent expansion of an existing nonconforming use demonstrate that this matter involves significant land use policy decisions within the meaning of Section 9-804.020(b). Accordingly, we expect the County to refer the Project application to the Planning Commission for review and decision, and to process the Project as a Conditional Use Permit rather than an Administrative Use Permit.

B. The Project Requires Compliance with SMARA's Public Review Procedures.

The Project cannot proceed to approval without first satisfying the procedural requirements imposed by SMARA. SMARA establishes a comprehensive framework for the identification, conservation, and protection of mineral resources of regional or statewide significance. Pursuant to Public Resources Code Sections 2762 and 2763, local agencies are required to recognize classified mineral resource information, evaluate proposed land uses that may affect access to significant mineral deposits, and ensure that land use decisions do not unnecessarily preclude future mineral extraction opportunities. Under Public Resource Code Section 2762(d):

(d)(1) If an area is classified by the State Geologist as an area described in paragraph (2) of subdivision (b) of Section 2761 and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a), or otherwise has not yet acted pursuant to subdivision (a), then prior to permitting a use that would threaten the potential to extract minerals in that area, the lead agency shall prepare, in conjunction with preparing, if required, an environmental document required by Division 13 (commencing with Section 21000), a statement specifying its reasons for permitting the proposed use and shall forward a copy to the State Geologist and the board for review.

(2) If the proposed use is subject to the requirements of Division 13 (commencing with Section 21000), the lead agency shall comply with the public review requirements of that division. Otherwise, the lead agency shall provide public notice of the availability of its statement by all of the following:

- (A) Publishing the notice at least one time in a newspaper of general circulation in the area affected by the proposed use.*
- (B) Directly mailing the notice to owners of property within one-half mile of the parcel or parcels on which the proposed use is*

located as those owners are shown on the latest equalized assessment roll.

(3) The public review period shall not be less than 60 days from the date of the notice and shall include at least one public hearing. The lead agency shall evaluate comments received and shall prepare a written response. The written response shall describe the disposition of the major issues raised. In particular, if the lead agency's position on the proposed use is at variance with recommendations and objections raised in the comments, the written response shall address in detail why specific comments and suggestions were not accepted.

[Public Resource Code Section 2762(d)]

The County's General Plan recognizes the importance of preserving access to areas containing significant mineral resources and requires that such lands remain available for mineral extraction unless the surrounding area has already been committed to incompatible uses. (General Plan, Part. 3.4-8.) Here, the Project presents a proposed use that is incompatible with the conservation of identified mineral resources, as substantively discussed further below. Therefore, the County as the lead agency must comply with SMARA's procedural requirements, including the mandatory public review period and public hearing requirements before approving such a use. These procedural protections are consistent with the County's General Plan policies governing MRZ-2 classified lands. The General Plan further requires discretionary review of development proposed in areas containing significant mineral resources to ensure that appropriate protections are implemented. These policies reinforce the County's obligation to carefully evaluate proposed incompatible uses before taking action that could permanently impair future mineral resource conservation and extraction opportunities.

We note that the Referral Notice published by the County claims exemption from CEQA review. Notwithstanding our disagreement with that conclusion and our expectation that the Project shall be subject to environmental review under CEQA (discussed below), Towers' claimed exemption does not eliminate or supersede SMARA's independent procedural requirements. Even if the County determines that the Project qualifies for a CEQA exemption, the County must still comply with the mandatory review periods and public hearing procedures required by Public Resources Code Section 2762 before taking action on the application.

The CEQA and SMARA review processes may involve overlapping considerations, public input, and potentially competing procedural timelines. The County must determine the appropriate manner in which to coordinate these statutory obligations and ensure that the Project receives the full review required under applicable law. Proceeding with a hearing before completion of the required SMARA review period would improperly truncate the public review process and could prejudice the County's ability to fully evaluate the Project's potential impacts on identified mineral resources. Any contemplated hearing should be withheld until the County has confirmed compliance with SMARA's procedural requirements and completed the appropriate review process.

In sum, the Project cannot proceed through the current administrative review process or be considered for approval at this time. The Project presents significant land use policy questions and substantial public controversy requiring referral to the Planning Commission and processing as a Conditional Use Permit. In addition, regardless of the claimed CEQA exemption, the Project remains subject to SMARA's independent procedural requirements, including the mandatory public review period and hearing requirements applicable to proposed uses that may conflict with the conservation of identified mineral resources. These procedural protections are intended to ensure that the County has a complete record and sufficient opportunity to evaluate the Project's potential impacts before taking action. Accordingly, the County should defer the scheduled hearing, complete the required procedural review, and ensure that the Project is processed through the appropriate approval pathway before any decision is made on the application.

2. Notwithstanding Procedural Deficiencies, The Project Substantively Fails to Satisfy the Required Findings for Approval and Violates Applicable Laws.

A. The Project Fails to Satisfy Required Findings for a Use Permit.

The County cannot make the required findings for approval of a Use Permit for this Project. The Zoning Code sets forth required findings prior to approval of a Use Permit:

Prior to approving an application for a Use Permit, the decision-maker (the Planning Commission or the Zoning Administrator) shall find that all of the following are true:

- (a) **Consistency.** The proposed use is consistent with the goals, policies, standards, and maps of the General Plan; any applicable Master Plan, Special Purpose Plan, Specific Plan, and Planned Development zone; and any other applicable plan adopted by the County;*
- (b) **Improvements.** Adequate utilities, roadway, improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, and the proposed improvements are properly related to existing and proposed roadways;*
- (c) **Site Suitability.** The site is physically suitable for the type of development and for the intensity of development;*
- (d) **Land Use Compatibility.** The location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;*
- (e) **No Nuisance Created.** The proposed use will not create any nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding ambient conditions;*
- (f) **Adequate Public Services and Facilities.** The site of the proposed use is adequately served by highways, streets, water, sewer, storm drainage, and other public facilities and services and*

(g) Conformance with Development Title. The proposed use complies with all applicable provisions of this Title.

[San Joaquin County Development Title, Section 9-804.050]

Relevant here, the Project plainly fails to satisfy at least findings (a), (d), and (g).¹ Specifically, the County cannot lawfully make the findings necessary to approve a Use Permit because the record demonstrates that the Project conflicts with the County's General Plan and the mineral resource conservation policies required under SMARA and violates the Zoning Code. These are each addressed below.

a. The Project Conflicts with the County's General Plan and Undermines SMARA's Mineral Resource Conservation Objectives.

A central issue for this Project is that portions of the Property are located within Mineral Resource Zone-2 ("MRZ-2") lands as classified by the State Geologist and recognized by the County. Portions of the Property are classified as MRZ-2 by the State Geologist and designated by the State Mining and Geology Board as having regional significance for construction aggregate resources. See Title 14, California Code Regulations, Section 3550.14, which expressly designated the geographic area encompassing the Property:

Sector C-Aggregate deposit that consists of the alluvial fan formed by Hospital Creek. Deposit extends from west of Interstate 580 within the foothills of the Coast Range and east into the San Joaquin Valley.

[Title 14, California Code Regulations, Section 3550.14]

The County has already effectively barred Towers from challenging this classification and designation by the County. As the County is aware, Towers previously challenged these designations in a petition for writ of mandate. The court rejected those claims and determined that the challenged land use and mineral resource designations were valid. The court further concluded that Towers had failed to timely challenge the designations and therefore could not collaterally attack them through subsequent proceedings. A copy of the court's decision is enclosed for the County's reference. The decision constitutes a final adjudication of Towers' challenges to the applicable General Plan and mineral resource designations. The validity and applicability of the General Plan policies and mineral resource designations are settled matters and must be treated as such by the County in its consideration of the Project. As a result, the proposed Project is subject to the mineral resource protection requirements set forth in SMARA and incorporated into the County's General Plan.

SMARA establishes a framework for the protection and conservation of mineral resources identified as having regional or statewide significance. Under Public Resources Code sections 2762 and 2763, local agencies are required to recognize classified and designated mineral

¹ The discussion herein is based on the information presently available. As additional information is disclosed and analyzed through further review required by applicable law, our client reserves the right to supplement these comments and identify further deficiencies with respect to these and other required findings.

resources, manage land uses affecting access to those resources, and emphasize the conservation and development of identified mineral deposits. Before approving a land use that may threaten the extraction of such resources, the lead agency must make specific findings and prepare a statement explaining why the use is being permitted notwithstanding the applicable mineral resource management policies under Public Resources Code Section 2763:

(a) If an area is designated by the board as an area of regional significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being of regional significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction.

[Public Resources Code Section 2763(a)]

Consistent with these statutory obligations, the County's General Plan requires MRZ-2 classified lands to remain in agricultural or open spaces uses until mineral extraction occurs unless the surrounding area has already been committed to incompatible uses. See General Plan, Part 3.4-8, Goal NCR-4:

NCR-4.1 Mineral Resource Protection. The County shall require mineral deposits of significant quantity, value, or quality, as identified and updated by the State Division of Mines and Geology reports as MRZ-2 Mineral Resource Zones, to remain in agricultural or open space uses until the extraction of the resources, unless the immediate area has been committed to other uses.

[General Plan, Part 3.4-8, Goal NCR-4.1]

The General Plan further requires discretionary review of development proposed within areas containing significant mineral resources so that appropriate protections may be imposed:

NCR-4.2 Discretionary Permit to Protect Mineral Resources. The County shall require all new development in areas of significant sand and gravel deposits, as identified by the State Division of Mines and Geology, to obtain a discretionary permit, conditioned to protect the resources.

[General Plan, Part 3.4-8, Goal NCR-4.2]

These policies reflect the County's obligation to preserve access to identified mineral resources and avoid land use decisions that would sterilize future extraction opportunities.

The Project is fundamentally inconsistent with these requirements. The proposed homesites and associated improvements would occupy lands with portions classified as MRZ-2 and would effectively preclude future access to and extraction of identified mineral resources. Moreover, incompatible residential development on or adjacent to mineral resource lands can itself impede future extraction activities, even where portions of the designated resource area remain physically undeveloped. Under these circumstances, the County cannot reasonably make the findings necessary to conclude that the Project is consistent with the General Plan's mineral resource policies or SMARA's resource conservation objectives.

b. The Project Does Not Conform to Applicable Zoning Requirements.

The Project also rests on a flawed interpretation of the County's land use framework. The application for the Project effectively treats the AG-40 zoning designation as a blanket authorization for residential development while ignoring the Property's General Plan designation, the presence of MRZ-2 lands, and the heightened review requirements applicable to development that may affect significant mineral resources. The County's land use regulations cannot be applied in this piecemeal manner. The AG-40 zone only allows certain residential uses under limited circumstances, and those provisions must be interpreted and applied in conjunction with the General Plan as a whole, including its agricultural preservation and mineral resource conservation policies, as well as the County's obligations under SMARA.

Most significantly, the application attempts to justify the Project as a permitted homesite on agricultural land. However, that characterization overlooks a critical limitation imposed by the County's Zoning Code, which expressly prohibits the establishment of homesites on nonconforming agricultural parcels. See San Joaquin County Development Title, Section 9-203.030(a)(1)(A):

Homesite Parcels. *Homesite parcels may be approved in any agricultural zone, provided that:*

(i) Not more than one homesite parcel may be created from an existing parcel; however, under no circumstances shall the number of parcels resulting from the division exceed the maximum number of parcels permissible under the General Plan density. Lots must meet the minimum lot sizes prior to application for a homesite parcel:

1. AG Zone: 40 acres.

[San Joaquin County Development Title, Section 9-203.030(a)(1)(A)]

This provision reflects the County's policy against further fragmentation and intensification of nonconforming agricultural lands. The Property consists of nonconforming agricultural parcels that do not meet the minimum parcel size required for the AG-40 zone. The Project therefore does not qualify as a permitted homesite under the Zoning Code. The Project

cannot circumvent these clear restrictions by selectively relying on isolated provisions that support residential development while disregarding the broader regulatory framework that governs development on resource lands and nonconforming parcels. The proposed residential use is not authorized by the County's Zoning Code because the Property does not satisfy the threshold requirements for creation of a homesite parcel.

As a general concern, the Project application cherry-picks provisions favorable to residential development while disregarding the General Plan's resource conservation policies, the County's MRZ-2 protections, and the Zoning Code's restrictions on homesites and development on nonconforming agricultural parcels. Thus, the Project application fails to demonstrate that the Project is consistent with the County's land use framework.

The Project's inconsistency with the County's mineral resource management policies, reliance on a selective reading of the General Plan, and apparent expansion of existing nonconforming conditions prevent the County from making the findings required to approve a Use Permit. At a minimum, these issues require substantial additional analysis and findings that cannot be completed prior to the currently scheduled hearing. Accordingly, the currently scheduled hearing should be continued.

B. CEQA Review is Required Because the Claimed Exemption is Inapplicable and the Project Presents Unusual Circumstances.

a. The claimed CEQA exemption does not apply on its face.

The original application for the Project asserts that it is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines at Title 14, California Code Regulations, Section 15303. Section 15303(a) provides a categorical exemption for certain small-scale construction projects:

(a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

[Title 14, California Code Regulations, Section 15303(a)]

The Project's reliance on this exemption is misplaced because the exemption does not apply to the Project on its face. Section 15303 exempts construction of one single-family residence in a residential zone, or up to three single-family residences, but only when those residences are located in urbanized areas. (Cal. Code Regs., tit. 14, § 15303(a).) The Property is neither located within a residential nor an urbanized area. To the contrary, the Property is zoned AG-40, is surrounded by agricultural and resource lands, and contains areas designated as MRZ-2 under SMARA. Because the Project is located in a rural agricultural area rather than residential or urbanized area, it falls outside the express scope of the exemption.

Accordingly, the County cannot rely on Section 15303 as a basis to avoid environmental review. Where a project does not satisfy the threshold requirements of a categorical exemption, the exemption is unavailable regardless of whether any exception under CEQA Guidelines section

15300.2 may also apply. Nevertheless, even assuming *arguendo* that the County determines Section 15303 could apply, the Project is independently precluded from exemption under the unusual circumstances exception set forth in CEQA Guidelines Section 15300.2(c), as discussed below.

b. Unusual Circumstances Preclude Reliance on the CEQA Exemption.

All categorical exemptions are subject to the exceptions set forth in Title 14, Cal. Code Regs., Section 15300.2. Relevant here is the exception for a significant effect:

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

[Title 14, Cal. Code Regs., Section 15300.2(c)]

The exception contained in CEQA Guidelines Section 15300.2(c) applies where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal. 4th 1086. A party invoking the exception may establish an unusual circumstance without evidence of an environmental effect by showing that the project has some feature that distinguishes it from others in the exempt class, such as its size or location. *Id.* Where there is any reasonable possibility that a project or activity may have a significant effect on the environment, an exemption would be improper. *Id.*

Here, the Property's designation within a mineral resource area and agricultural zone constitutes an unusual circumstance that distinguishes this Project from the typical development contemplated by the Section 15303 exemption. See *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster*, (52 Cal. App. 4th (2nd Dist. 1997) (the presence of resources, such as sand and gravel, contributed to the unusual circumstances precluding the application of a CEQA exemption for a landfill to discharge municipal waste in an unlined empty sand and gravel pit). As discussed above, the Project proposes substantial construction within areas designated for the protection of regionally significant mineral resources. Approval of the Project would impinge upon and practically preclude future access to those identified mineral resources. The potential sterilization of mineral resources designated for conservation and development under SMARA and the County's General Plan presents a reasonable possibility of a significant environmental impact.

Because the Project involves unusual circumstances and may result in significant effects related to the loss of access to designated mineral resources, the categorical exemption claimed under CEQA Guidelines Section 15303 does not apply. Accordingly, at a minimum, these circumstances preclude the use of a categorical exemption and require the County to undertake further CEQA analysis before considering approval of the Project.

Given the nature and scope of the issues addressed herein, the County cannot reasonably complete the necessary evaluation, make the required findings, or satisfy its obligations under applicable land use and environmental laws prior to the currently scheduled hearing on

July 23, 2026. Proceeding with consideration of the Project before these issues have been adequately analyzed would be premature and would deprive the County and the public of the information necessary to make an informed decision. Accordingly, the County should remove the Project from the upcoming hearing agenda or continue the matter to a future date to allow sufficient time to address the matters raised herein.

These comments are submitted based on limited information presently available, and we reserve all rights to revise, supplement, or amend the comments as further information is disclosed. Should you have any questions or require clarification, we are available to discuss these comments further.

Very truly yours,

HARRISON, TEMBLADOR,
HUNGERFORD & GUERNSEY LLP

A handwritten signature in black ink, appearing to be 'D. Temblador', with a stylized, flowing script.

David P. Temblador, Esq.

cc: Rod Getty
Steve Azevedo
Jennifer Jolley, Director Community Development
Jacob Pahule, Project Planner
Mark D. Harrison, Esq.
Kimberly A. Gambrall, Esq.

January 15, 2026

VIA ELECTRONIC MAIL

Jacob Pahule, Project Planner
San Joaquin County Community Development Department
1810 E Hazelton Ave
Stockton, CA 95205
jpahule@sjgov.org

*Re: Opposition to Application Referral for Proposed Project at 37100 S. Koster Rd.,
Tracy, CA; Application Number PA-2500240*

Dear Mr. Pahule:

This letter serves to provide the County with comments regarding the Application Referral: Staff Review with Notice (the "Application") dated December 29, 2025, attached as Exhibit A for your reference. The Application requests recommendations or comments be submitted by **January 16, 2026**.

We represent DSS Company dba Knife River Construction ("Knife River"), the owner and operator of a quarry in the Vernalis area of San Joaquin County ("County"), located adjacent to the Property that is the subject of this Application. The Application proposes the construction of single-family residences (the "Project") on each of three parcels located in the Vernalis area. The parcels, designated as San Joaquin County Assessor Parcel Numbers (APNs) 265-090-08, 265-090-09, and 265-090-10 (collectively, the "Property"), have a General Plan designation of Open Space, Resource Conservation and are zoned AG-40 (General Agricultural, 40-acre minimum). The notice suggests the County will use an Administrative Use Permit to approve this land use. The notice asserts exemption from the California Environmental Quality Act (CEQA) under Section 15303.

Knife River has serious concerns regarding the Application. First, portions of the Property lie within areas designated as Mineral Resource Zones, triggering the Surface Mining and Reclamation Act's (SMARA) mineral resource protections. Second, the Application seeks authorization through an Administrative Use Permit, which is inconsistent with the County's Zoning Code for the proposed use. Finally, the claimed CEQA exemption does not appear to apply because the Project presents unusual circumstances that could result in significant impacts to designated mineral resources. For these reasons, we submit the following observations and comments opposing the current Application referral on behalf of Knife River.

A. Prior History

At the outset, the County should be aware of the documented history showing that the Property has been the subject of significant land use controversy involving the same type of proposed development.

The Applicants, Roger and Catherine Towers ("Towers"), own three parcels totaling approximately 19 acres on the east side of Koster Road, directly across from the Knife River Vernalis Quarry ("Quarry") and adjacent to the Delta-Mendota Canal, including the Property proposed for the site of the Project. Towers has previously pursued legal actions involving alleged land use issues, including claims against the County and quarry neighbors.

For example, and not intending to be exhaustive in this explanation, on December 1, 2009, Towers filed a petition for writ of mandate and complaint in the Superior Court for San Joaquin County, which was subsequently amended on December 21, 2009 ("Complaint")¹. The Complaint alleged that the County violated state and local law in connection with the adoption of County ordinances and the approval of quarry excavation permits in the Vernalis area over an extended period. The Complaint named the County, the Community Development Department Director, and multiple quarry operators, including Knife River, as real parties in interest. Among other allegations, Towers asserted that the County failed to protect agricultural land, scenic resources along the Interstate 580 corridor, and public health and environmental interests in approving quarry permits. Towers further sought rescission of ordinances, clarification of the County's land use authority, and monetary damages.

Several of Towers' claims directly implicated Knife River's Quarry operations. Towers alleged, among other things, that the County misstated General Plan and State Mining and Geology Board mineral resource designations when approving Knife River's permit, failed to enforce groundwater monitoring and other permit conditions, and that Knife River's Quarry permit had allegedly become void due to purported noncompliance with conditions of approval. Towers sought a judicial declaration voiding Knife River's permit and requiring a new excavation permit to continue operations. Similar claims were asserted against other Vernalis quarry operators. Knife River, as a party to the litigation, demurred to the Complaint and successfully obtained dismissal of all claims asserted against it.

Towers has previously sought to develop the Property through abbreviated land use process permits for principal and accessory dwellings. Those permits were initially approved, but they were subsequently revoked by the County. In 2003, Towers' appeal of the revocation was denied, rendering the revocation final and effective. Towers also sought to amend the Property's land use designation, but those efforts were denied, including a petition for writ of mandate that was dismissed in 2004.²

In short, the claims previously raised by Towers concerning the Property, quarry operations, and related land use matters have been adjudicated or otherwise resolved by the County and the courts. As a result, many of the land use issues Towers previously raised have been fully

¹ San Joaquin County Superior Court Case No. 39-2009-00231065-CU-WM-STK.

² On June 18, 2004, Towers filed a Petition for Writ of Mandate for judicial review of the County's determination regarding the OS/RC designation of the Property, San Joaquin County Superior Court Case No. CV023966.

addressed and concluded, and the doctrine of res judicata bars a new rehearsal of those same claims. We can provide the County with relevant litigation history should it so wish.

B. Comments on Current Application

As submitted, the Application contains several fundamental deficiencies. Specifically, the Application fails to account for the Property's mineral resource designation, improperly relies on an administrative permit that is not authorized under the County's Zoning Code, and cites a CEQA exemption that does not apply to the proposed Project, each of which is addressed below.

1. Mineral Classification

Portions of the Property are located within Mineral Resource Zones (MRZ-2) as designated by the County and the State Geologist. As a result, the proposed Project is subject to the mineral resource protection requirements set forth in the County's General Plan and SMARA.

SMARA establishes a framework for the protection and conservation of mineral resources identified as having regional or statewide significance. Under Public Resources Code Sections 2762 and 2763, once mineral resource information has been classified and transmitted by the State Geologist, the lead agency is required to adopt mineral resource management policies within its general plan that: (1) recognize the classified mineral information, (2) assist in the management of land use that affects access to areas of statewide and regional significance, and (3) emphasize the conservation and development of identified mineral deposits. Before approving a land use that would threaten the potential extraction of minerals within an area designated as regionally or statewide significant, the lead agency must prepare a statement specifying the reasons for permitting the use in accordance with those mineral resource management policies. (*Pub. Resources Code* §2763). These protections apply not only to lands that are designated as regionally or statewide significant, but to adjacent lands, that if developed with an incompatible use, could threaten the potential extraction of the designated materials.

In accordance with SMARA, the San Joaquin County General Plan includes specific mineral resource protection provisions. Under the General Plan, the County shall require mineral deposits of significant quantity, value, or quality, as identified and updated by the State Division of Mines and Geology reports as MRZ-2 Mineral Resource Zones, to remain in agricultural or open space uses until the extraction of the resources, unless the immediate area has been committed to other uses. (General Plan, Page 3.4-8). Further, the County shall require all new development in areas of significant sand and gravel deposits, as identified by the State Division of Mines and Geology, to obtain a discretionary permit, conditioned to protect the resources. (*Id.*).

The Project proposes substantial construction within areas of the Property designated as Mineral Resource Zones, notwithstanding that other portions lie outside those zones. Under these circumstances, the County's General Plan requires application of mineral resource protection policies and completion of the corresponding review procedures prior to any approval of the Project. If approved as proposed, the Project would functionally sterilize the affected Mineral Resource Zone areas from future mineral extraction, effectively precluding access to identified mineral resources. The Project is inconsistent with the County's General Plan, SMARA's

conservation objectives, and the long-term public interest in preserving access to regionally significant mineral resources. Therefore, it cannot be approved.

2. Administrative Permit

The Application's reliance on an Administrative Use Permit is improper under the County's Zoning Code. The Property is zoned AG-40 (General Agricultural, 40-acre minimum). Under the County's Zoning Code, a single-unit dwelling within the AG-40 zoning designation requires approval of a Use Permit, not an Administrative Use Permit. (See San Joaquin County Development Title, Table 9-203.020-1.) The Zoning Code does not authorize approval of a single-unit dwelling in the AG-40 zone through an administrative permit process.

Accordingly, the Application is fundamentally flawed in that it seeks authorization under an incorrect entitlement pathway. An Administrative Use Permit cannot substitute for a Use Permit where the Zoning Code expressly requires the latter. Approval of the Project through an administrative process would therefore be inconsistent with the County's adopted zoning regulations and procedurally improper.

Further, even if the three parcels comprising the Property were to be treated as legal nonconforming lots, the proposed use would still not be permitted. The County's Zoning Code expressly provides that nonconforming uses may not be enlarged, expanded, intensified, or extended beyond the scope of the legally established nonconformity. (San Joaquin County Development Title, Section 9-405.050). The proposed Project would constitute an impermissible intensification and expansion of use and therefore cannot be approved based on any claimed nonconforming status.

For these reasons, the Application's request for an Administrative Use Permit is not supported by the County's Zoning Code and should be denied.

3. CEQA Exemption

The Application asserts that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines at Title 14, California Code Regulations, Section 15303. Section 15303 provides a categorical exemption for certain small-scale construction projects. All categorical exemptions are subject to the exceptions set forth in Title 14, Cal. Code Regs., Section 15300.2.

The exception contained in CEQA Guidelines Section 15300.2(c) applies where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal. 4th 1086. Here, the Property's designation within a Mineral Resource Zone constitutes an unusual circumstance that distinguishes this Project from the typical development contemplated by the Section 15303 exemption. As discussed above, the Project proposes substantial construction within areas designated for the protection of regionally significant mineral resources. Approval of the Project would impinge upon and practically preclude future access to those identified mineral resources. The potential sterilization of mineral resources designated for conservation and

development under SMARA and the County's General Plan presents a reasonable possibility of a significant environmental impact.

Because the Project involves unusual circumstances and may result in significant effects related to the loss of access to designated mineral resources, the categorical exemption claimed under CEQA Guidelines Section 15303 does not apply. Accordingly, at a minimum, these circumstances preclude the use of a categorical exemption and require the County to undertake further CEQA analysis before considering approval of the Project.

For the reasons stated above, Knife River respectfully requests that the County deny the current Application referral and ensure that any further consideration of the Property is consistent with its established legal status, applicable zoning and permitting requirements, and CEQA exemptions.

These comments are submitted based on limited information presently available, and we reserve all rights to revise, supplement, or amend the comments as further information is disclosed. Should you have any questions or require clarification, we are available to discuss these comments further.

Very truly yours,

HARRISON, TEMBLADOR,
HUNGERFORD & GUERNSEY LLP

A handwritten signature in blue ink, appearing to read 'M. Harrison', with a stylized flourish at the end.

Mark D. Harrison, Esq.

cc: Rod Getty
Steve Azevedo
John Hecht
Pierce Swerdfeger
Jennifer Jolley, Director Community Development
Kirin Virk, Esq.
Kimberly A. Gambrall, Esq.

Roger Towers
95 54th Street S.E.
Washington, D.C. 20019

January 24, 2026

Jacob Pahule, Project Planner
Community Development Department
1810 E. Hazelton Ave.
Stockton, CA 95205

RE: PA-2500240/ Response to comments from DSS/Knife River

Dear Mr. Pahule:

Thank you for forwarding the letter of opposition prepared on behalf of the DSS Co./Knife River (DSS). At issue is an application for an administrative use permit. The necessity of the application relates to the two-step classification/designation process of significant mineral resources (sand and gravel aggregate). This two-step process is governed by the Surface Mining and Reclamation Act (SMARA), as implemented through the California Code of Regulations. Essentially, the idea is that we don't pave over resources critical to societal needs.

In this two-step process, staff of the State Geologist's Office conduct studies to identify mineral resources which may be significant. These studies are compiled into "Special Reports" by the Office of the State Geologist. In the vernacular of the geologists, Mineral Resource Zone 2 (MRZ-2) is an area where significant mineral resources are likely located. Once the classification step has been completed, the information is forwarded to the Mining and Geology Board to be considered for formal designation of significance. The classification/designation process serves to inform local agencies and triggers adoption of policies. Pursuant to Public Resources Code §2715 (f), neither SMARA nor the implementing regulations may preclude *"the power of any city or county to regulate the use of buildings, structures, and land..."*¹

As I have previously discussed with staff, and supported with materials included in the application; the Property has no potential for mining. After the Delta-Mendota Canal was constructed, the Bureau of Reclamation sold remnants of the land acquired for the right-of-way. Concerned about the integrity of the Canal, the quit-claim deeds included deed restrictions preventing excavation of these properties. In the process of selling the excess right-of-way, the federal government retained all sub-surface mineral rights. The

¹ See Special Reports 160 prepared in 1988 (SR160) and 199 prepared in 2012 (SR199) for a more thorough explanation of the process and background. These documents are attached to the electronic version of this response to the DSS opposition.

quit-claim deed to Charles Tusso, our predecessor in interest, was submitted with the application. The property cannot be mined as a matter of federal policy.

Even assuming there were no federal restrictions preventing excavation of the property; the size and shape of the Property prevent commercial excavation. These nineteen acres of land are sandwiched between the DMC and Koster Road. Assuming the same setbacks utilized by the State Geologist (300' from the centerline of the Canal and 100 foot setback from public roads); the remaining surface area that could be disturbed is 5.2 acres. To suggest, as DSS does, that 5 acres could be profitably mined is absurd. Five acres is not even enough area for a wash basin and processing plant. Aggregate quarries in the Tracy area require in excess of 100 acres.

Other history of the Property, not previously discussed with planning staff, includes substantial evidence that Property was mined as part of the construction of the Canal. We first acquired an interest in this Property by purchase agreement on or about February 2000 and completed the transaction about a year later. In anticipation of the construction of houses on each of the three parcels and as part of pre-purchase due diligence, a lot of work was done to ensure that the Property was suitable for the proposed use. As a result of those efforts, including review of Bureau of Reclamation Records and soil testing, it is clear that a concrete batch plant was located on the northerly end of the Property. It is otherwise abundantly clear that the Property was previously excavated for the purpose of supplying sand and gravel aggregate to the batch plant.

In the process of constructing the Canal, in some areas, excavation resulted in the deposit of diggings on adjacent land. Many of these diggings remain as piles such as presently located on lands to the north and south of the Property. The piles are otherwise located on the west side of the Canal to prevent surface drainage into the Canal. Concrete batch plants with adjacent borrow sites were located at various locations along the route. Upon completion of the adjacent segment of the Canal, the borrows were filled and leveled.

Unlike land to the north and south of the Property, the Property has been leveled. A concrete pad is located on the north end of the Property which is evidence of a former batch plant. Adjacent to the east boundary of the Property (west side of the Canal), a drainage line is maintained by the Bureau of Reclamation to prevent surface water drainage from entering the canal.

Based on discussions with an expert in soil science, pot-holing, percolation test holes, construction of fencing across the length of the Property, the ability to drive across the Property after heavy rains without leaving any ruts; it is clear that the native soil structure has been destroyed. Zacharias Gravelly Clay- the predominant soil type for the area- consists of A, B, C soil horizons. There is no structure associated with the Property

soil. Permeability of the Zacharias Gravelly Clay is moderately slow to slow and often includes a perched water table due to a clay lens at about 60 inches.² The soil onsite is excessively drained and contains large cobble. This is exactly what you would expect to see from the filling of a borrow pit in the 1950's. When the batch plant is no longer needed, it is moved to the next site and the hole is filled in the least expensive manner. After removing the purest sand and gravel layers, the process of refilling the pit results in the mixing of soil horizons with layers of other earth containing sand, gravel, and cobble.

Obviously, the concrete used to construct the canal had to come from somewhere. The mineral resource classification reports prepared by the State Geologist, SR160 (1988) and SR199 (2012) do not identify former borrow sites or consider the use of these sand and gravel resources in their studies.³ Plainly, the State Geologist's estimates are overstated. More than that, the designation of Sector C-8 as MRZ-2 (where the Property is located) is flatly wrong according to Mining and Geology Board criteria for classification/designation.

SMARA requires the Mines and Geology Board to establish guidelines for determining significance. The latest iteration of these Guidelines can be found online, but the basic process hasn't changed since 1978.⁴ Sector C-8 does not meet economic threshold values established by the Board. "Threshold values are intended to indicate in a general way the approximate minimum size of a mineral deposit that will be considered significant for classification and designation." (SR199, p.7.) As shown in Special Report 160, Sector C-8 didn't meet the threshold value. As then described, Sector C-8 consisted of an estimated 800,000 tons of resources. As of 1988, the bench-line valuation minimum was \$8.7 million (SR160, p.XI). Thus, the 2010 General Plan map identifying significant mineral resources excluded Sector C-8.⁵ In 1988 aggregate was valued at \$5/ton (SR160, p.5). Accordingly, Sector C-8 was then valued at \$4 million, less than half of the value required for classification/designation.

In SR199 (p.7) the adjusted threshold value was determined to be \$17,375,000. Without explanation, the resource tonnage of Sector C-8 was changed to 1.3 million tons—an increase of 500,000 tons (62%). Graphically, Sector C-8 had been reduced from about 50 acres to 34 acres. The reduction in acreage can be attributed to the fact that it was unreasonable to assume excavation within 300' of the centerline of the Canal.⁶ Presumably, resource tonnage should have decreased. I discussed this magical 62%

² https://soilseries.sc.egov.usda.gov/OSD_Docs/Z/ZACHARIAS.html

³ Special Reports 160 and 199 are attached to the email delivering this letter.

⁴ <https://www.conservation.ca.gov/smgf/Guidelines/Documents/ClassDesig.pdf>

⁵ See Figure VI-4 Significant Sand and Gravel Resources. The scale of the drawing makes it difficult to determine. However, when enlarged and overlain with Sector C-8, the intent is clear as there is "blank-spot"

⁶ See SR199 p.11, ¶4 identifying a 300' setback from the centerline of the Canal. At p.38, the acreage and tonnage is listed.

increase of 500,000 tons with staff of the State Geologist who represented that the increase was associated with the excavation piles located next to the Canal- an area now excluded from classification/designation by the 300' setback. Regardless of the magic that occurs in these calculations in 2012, Sector C-8 still fails to meet the minimum threshold value. At \$13/ton in 2010 dollars the valuation of Sector C-8 was \$16,900,000 which is still short of the inflation adjusted \$17,375,000 threshold. Under the particular circumstances of Sector C-8, it is clear the process has been corrupted by improper influence of the mining industry.

It is important to keep this background in mind as the DSS comments are evaluated. The three enumerated points of the DSS opposition are addressed below.

1. DSS MISREPRESENTS THE APPLICATION PROCESS–

The Property is zoned "Agriculture" (AG). Citing Development Title TABLE 9-203.020-1: USES IN AGRICULTURAL ZONES; DSS claims: "Under the County's Zoning Code, a single-unit dwelling within the AG-40 zoning designation requires approval of a Use Permit, not an Administrative Use Permit." This is nonsense. Under the heading "Residential", the Table identifies "single unit dwellings" as "P" for permitted use.

Assuming the General Plan designation of Open Space Resource Conservation (OSRC) is correct,⁷ Chapter 9-707 "Natural Resources" imposes additional requirements. As provided by the Purpose Statement at 9-707.10: "This Chapter establishes regulations for the protection, conservation, and/or managed use of specified natural resources, including riparian habitat and mineral resources." As further provided at 9-707.50: "In areas designated as Open Space/Resource Conservation on the General Plan Land Use Map, all proposed development and modified or expanded land uses require an Administrative Use Permit." Accordingly, single family residential use is allowed subject to approval of an Administrative Use Permit.

2. MINERAL RESOURCE POLICY ARGUMENT IS SPECIOUS

Fundamentally, the DSS attorneys misrepresent the classification/designation process. This portion of the argument begins by falsely claiming: "Portions of the Property are located within Mineral Resource Zones (MRZ-2) as designated by the County and the State Geologist." The designation of significant mineral resources is a result of action by

⁷ The 2035 General Plan does not include a diagram by which the boundary line between the OSRC and AG designations can be determined. Insufficient information exists within the text of the General Plan to determine where the line should be drawn. It remains my position that the line has been arbitrarily drawn in violation of California General Plan and Zoning Law and the 14th Amendment.

the State Mines and Geology Board- not the State Geologist or the County. (See, e.g. – the discussion of SR199 at pp.3-4.)

The commentor then identifies two policies, to set up another false argument. To understand the policies, it is necessary that those policies be accurately stated.

NCR-4.1 Mineral Resource Protection The County shall require mineral deposits of significant quantity, value, or quality, as identified and updated by the State Division of Mines and Geology reports as MRZ-2 Mineral Resource Zones, to remain in agricultural or open space uses until the extraction of the resources, unless the immediate area has been committed to other uses. (RDR)

NCR-4.2 Discretionary Permit to Protect Mineral Resources. The County shall require all new development in areas of significant sand and gravel deposits, as identified by the State Division of Mines and Geology, to obtain a discretionary permit, conditioned to protect the resources. (RDR)

The DSS attorneys then falsely claim:

The Project proposes substantial construction within areas of the Property designated as Mineral Resource Zones, notwithstanding that other portions lie outside those zones. Under these circumstances, the County's General Plan requires application of mineral resource protection policies and completion of the corresponding review procedures prior to any approval of the Project. If approved as proposed, the Project would functionally sterilize the affected Mineral Resource Zone areas from future mineral extraction, effectively precluding access to identified mineral resources.

First, most of the Property, including the location of the proposed houses, is located within 300' of the Centerline of the Canal- an area specifically excluded from MRZ-2. (See SR199 p.11, ¶14.) Therefore, most of the Property is outside the MRZ-2 boundary. This boundary is clearly delineated on the site plan. See also SR199 Plate 2, attached.

Assuming the homes were actually located in MRZ-2, DSS argument still fails for numerous reasons. Pursuant to the General Plan, the Open Space element is implemented through AG zoning. It follows that very low density residential development is an "agricultural or open space use". To argue otherwise would be deny existence of Policy 4.2. This policy allows development subject to obtaining a discretionary permit, i.e. – this application.

Policy 4.1 is literally labeled "Mineral Resource Protection". There are no minerals on this Property to protect. In order for land use policies to be valid, they cannot arbitrarily or capriciously deny the right to reasonable economic use of land. This is a right protected by the 14th Amendment. And why would these policies refer to the classification maps prepared by the State Geologist as opposed to action taken by the Mines and Geology Board? "As set forth in Section 2761 (b) of SMARA, the State Geologist shall classify land solely on the basis of geologic factors and without regard to existing land use." (SR199, p.6) The wording of these policies, focusing on classification rather than designation, is irrational.

The last point on this issue is that the immediate area surrounding the Property is committed to other uses, i.e. – Koster Road, the Delta-Mendota Canal, and the residence to the south. The County has no setback policies preventing the construction of homes on other MRZ-2 designated land not designated OSRC by the General Plan. As such, application of the policy that prevents construction would be a clear violation of the right to equal protection of the laws for similarly situated property.

With respect to the suggestion that rural residential development is an incompatible land use, DSS fails to identify in what way the proposed project is incompatible. For purposes of SMARA and the classification/designation process, rural residential use is compatible.⁸ DSS obtained a permit and it is required to abide by the terms of that permit. If DSS fails to abide the terms of its permit, the permit is subject to revocation. DSS is reminded that the very existence of their permit, as all excavation permits, rides on the representation that their excavation will have no significant effect on the environment that cannot be mitigated. See 9-707.040(c)(2) – Prohibited Uses. Further, any suggestion that development of the Property impinges on unlawful operation of their quarry operations is contrary to property nuisance law. Action by the County to deny this development of the Property based on unlawful operation of the quarry is tantamount to the taking of an easement for unlawful reasons.

3. CEQA ARGUMENT REPEATS SPECIOUS MINERAL RESOURCES ARGUMENT

DSS claims: “the Property’s designation within a Mineral Resource Zone constitutes an unusual circumstance that distinguishes this Project from the typical development contemplated by the Section 15303 exemption.” Here, DSS repeats the false claim that construction of the proposed homes is located within MRZ-2. As previously detailed, the proposed homes are not within MRZ-2. And, even if the homes were so located, it would not make a difference because there is no potential for future excavation of the Property.

CONCLUSION

As discussed, there is no potential for excavation of this property. This is a finding that was previously made in approving a 2008 truck parking application on this site.⁹

⁸ “Areas currently permitted for mining and areas found to have land uses compatible with possible mining are identified as *Sectors*.” SR199 p.3 ¶3. There are several houses in the vicinity of the Property within MRZ-2, including the residence immediately to the south of the Property shown on the site plan. Moreover, the EIR’s prepared for the quarries have included specific findings of compatibility with adjacent residential use. It is beyond logic to claim mining is compatible with rural residential use, but rural residential use is incompatible with mining.

⁹ Approved by Board of Supervisors July 16, 2009.

Response to DSS Comments

January 24, 2026

Page | 7

Regardless, it would be appropriate to include findings stating such in the approval of this application. Proposed findings are attached.

The comments submitted on behalf of DSS are not based on fact, but misrepresentation and obfuscation. Accordingly, the arguments should be dismissed. To the extent that County has required a permit to ensure valuable mineral resources are protected, that goal has been achieved.

Sincerely,

Roger Towers

Roger Towers

Electronic Attachments:

1. SR160 (pdf)
2. SR199 (pdf)
3. Cropped version of SR199 Plate showing Sector C-8. (pdf)
4. Proposed Findings. (word doc)

89026462

SAN JOAQUIN COUNTY
RECORDER'S OFFICE
YVONNE I. UDALL

3

89 MAR 27 PM 1:27

RECORDED AT REQUEST OF

Sam Tusso
FEE 8-1

SAM TUSO
27369 S. LAMMERS
TRACY, CA 95376

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
CENTRAL VALLEY PROJECT

DOCUMENTARY TRANSFER TAX
County of San Joaquin
57.75

Delta-Mendota Canal
Unit No. C-19B and C-25
3:7:9

DOCUMENTARY TRANSFER TAX *57.75*
computed on full value of property conveyed.
computed on full value less liens and
encumbrances existing at time of sale.

QUITCLAIM DEED

Salvatore Sam Tusso
Signature of Declarant First Name

FOR VALUE RECEIVED, and in accordance with the Act of February 2, 1911, (36 Stat. 895, 43 U.S.C. 374), the UNITED STATES OF AMERICA, the United States, does hereby quitclaim, release and convey to Salvatore Tusso, also known as Sam Tusso, and Marie F. Tusso, husband and wife, their heirs, executors, administrators and assigns, all of its right, title and interest in a tract of land in the E 1/2 sec. 5 and the NE 1/4 sec. 8, T. 4 S., R. 6 E., M.D.M., County of San Joaquin, State of California, containing an area of 25.35 acres, more or less, and more particularly described in Exhibit "A" attached hereto and by reference made a part hereof.

SUBJECT TO all easements or rights-of-way existing at time of sale or of record in favor of the public or third parties; and

SUBJECT TO restrictions contained in Section 3(b) of Executive Order 11988 dated May 24, 1977, relating to Floodplain Management; and

SUBJECT TO the condition that no excavation below elevation 190 feet, as established from mean sea level datum, is permitted on this parcel without prior approval by the Bureau of Reclamation. Plans for such excavation must be signed by a registered Soils or Geotechnical Engineer prior to submittal to Reclamation for approval; and

SUBJECT TO the condition that no tailwater or other waste water from the parcel described herein be permitted to enter the Delta-Mendota Canal; and

There shall be reserved to the United States all interests and rights in and to coal, oil, gas and any and all other minerals.

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA has caused this deed to be executed this *9th* day of *March*, 19*89*.

THE UNITED STATES OF AMERICA

Gary T. Sacall
Assistant Regional Supervisor of Water
and Power Resources Management
Mid-Pacific Region
Bureau of Reclamation

27369 S. LAMMERS
TRAC. CH 45376

89026462

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
CENTRAL VALLEY PROJECT

Delta-Mendota Canal
Unit No. C-198 and C-25
3:7:9

✓ FURTHER TRANSFER TAX \$ 511
- duties or full value of property conveyed,
- computed on full value less liens and
- encumbrances existing at time of sale.

QUITCLAIM DEED

Signature of Declarant Firm Name

FOR VALUE RECEIVED, and in accordance with the Act of February 2, 1911, (36 Stat. 895, 43 U.S.C. 374), the UNITED STATES OF AMERICA, the United States, does hereby quitclaim, release and convey to Salvatore Tusso, also known as Sam Tusso, and Marie P. Tusso, husband and wife, their heirs, executors, administrators and assigns, all of its right, title and interest in a tract of land in the E 1/2 sec. 5 and the NE 1/4 sec. 8, T. 4 S., R. 6 E., M.D.M., County of San Joaquin, State of California, containing an area of 25.35 acres, more or less, and more particularly described in Exhibit "A" attached hereto and by reference made a part hereof.

SUBJECT TO all easements or rights-of-way existing at time of sale or of record in favor of the public or third parties; and

SUBJECT TO restrictions contained in Section 3(b) of Executive Order 11988 dated May 24, 1977, relating to Floodplain Management; and

SUBJECT TO the condition that no excavation below elevation 190 feet, as established from mean sea level datum, is permitted on this parcel without prior approval by the Bureau of Reclamation. Plans for such excavation must be signed by a registered Soils or Geotechnical Engineer prior to submittal to Reclamation for approval; and

SUBJECT TO the condition that no tailwater or other waste water from the parcel described herein be permitted to enter the Delta-Mendota Canal; and

There shall be reserved to the United States all interests and rights in and to coal, oil, gas and any and all other minerals.

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA has caused this deed to be executed this 9th day of March, 1989.

I CERTIFY UNDER PENALTY OF PERJURY THAT THIS IS A TRUE AND CORRECT COPY OF THE ATTACHED DOCUMENT WHICH IS PHOTOGRAPHICALLY UNPRODUCIBLE.

Salvatore Sam Tusso

THE UNITED STATES OF AMERICA

Gary T. Sachell
Assistant Regional Supervisor of Water
and Power Resources Management
Mid-Pacific Region
Bureau of Reclamation

A tract of land in the east half (E 1/2) of Section Five (5) and the northeast quarter (NE 1/4) of Section Eight (8), all in Township Four (4) South, Range Six (6) East, Mount Diablo Meridian, County of San Joaquin, State of California, said tract of land also being a portion of the real property described in the Grant Deeds from Vincent Traina, et al., recorded March 29, 1948, in Volume 1131 at page 79 and from Mollie Marie Kaspo, recorded May 4, 1948 in Volume 1106 at page 365, both of the Official Records of said county, containing an area of 25.35 acres, more or less, and described as follows:

Beginning at a point in the easterly right-of-way boundary of Koster Road, distant North-55°36'21" West, 434.09 feet from a concrete monument marking the east quarter corner of said Section 5; thence from said point of beginning along said easterly right-of-way boundary the following five (5) courses: (1) Beginning in a curve concave to the southeast having a radius of 275.0 feet and at which point a radial line bears North 34°54'03" West; thence southerly 217.58 feet along said curve through a central angle of 45°19'57"; (2) thence South 09°46' West 2034.3 feet to the beginning of a curve concave to the east having a radius of 975.0 feet; (3) thence southerly 175.84 feet along said curve through a central angle of 10°29'; (4) thence South 00°34' East 536.0 feet to a point in the section line common to said Sections 5 and 8; and (5) thence continuing South 00°34' East 701.15 feet; thence leaving said easterly right-of-way boundary South 89°06' East 383.92 feet; thence North 00°58'17" East 706.55 feet to a point on said common section line distant therealong 445.22 feet from a concrete monument with brass cap marking the southeast corner of said Section 5; thence North 01°16'53" East 2896.15 feet, more or less, to the point of beginning.

Portion of Units C-19B and C-25
Delta-Mendota Canal

STATE OF CALIFORNIA)
) ss.
County of Sacramento)

On this 9TH day of March, 19 89, before me,

Cathy S. Galletta _____, a Notary Public in and for the County and
State aforesaid, personally appeared, Gary T. Sackett _____,

Assistant Regional Supervisor of Water and Power Resources Management,
Bureau of Reclamation, Mid-Pacific Region, personally (known to me) (p) ~~XXXXXX~~
to me on the basis of satisfactory evidence, to be the person whose name is
subscribed to the within instrument, and acknowledged that he executed the
same on behalf of the United States.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year in this certificate first above written.



Cathy S. Galletta
Notary Public in and for the County of
Sacramento, State of California

Thursday, December 1, 1999

EX'E

468-3163



United States Department of the Interior

BUREAU OF RECLAMATION
South-Central California Area Office
2658 North Grove Industrial Drive, Suite 106
Fresno, California 93727-1331

IN REPLY, REFER TO:

84C-452
LXD-6-00

MAR 24 2000

Mr. Roger Towers
Prudential California Realty
1101 Sylvan Ave., Suite A-7
Modesto, California 95350

Subject: Reserved Mineral Rights - Quitclaim Deed - Delta-Mendota Canal
(Unit #'s C-238 and C-25)

Dear Mr. Towers:

The United States Bureau of Reclamation Instructions, Chapter 8, Part 215, was in place at the time this Quitclaim Deed was issued. Part 215.8.D(12) of these disposal instructions specifically requires the conveyance document to contain a mineral reservation to the United States. As retention of mineral rights is common practice in the issuance of patents and other Federal and private lands transactions, it is unlikely that the subject mineral reservation would preclude the owner from developing the property for residential purposes. The retention of mineral rights by the United States in this case would also limit subsurface activities by other parties which could damage the Delta-Mendota Canal. Given the requirement to reserve mineral interests to the United States and the potential damage to the Delta-Mendota Canal from subsurface activities, the request to remove or modify the mineral reservation cannot be accommodated.

If you have any questions, please contact me at (559) 487-5409 or for the hearing impaired at (559) 487-5933.

Sincerely,

Robert Johnson
Realty Specialist
South-Central California Area Office

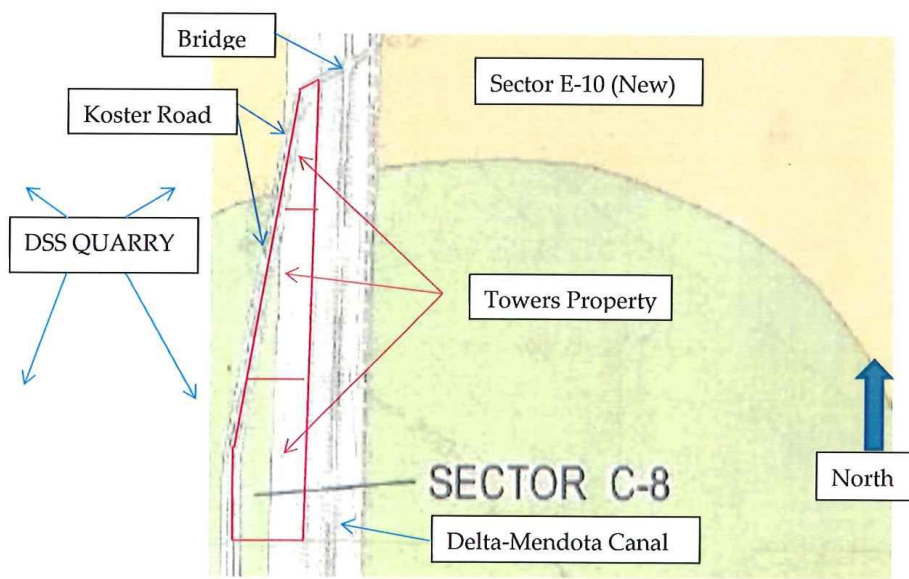
PA-25000240
APPLICANT SUBMITTED FINDINGS FOR APPROVAL

BACKGROUND FINDINGS

1. Roger and Catherine Towers own three parcels of land consisting of approximately 19 acres of land in total (the "Property"). The Property is located on S. Koster Road, Tracy and is presently identified by Assessor Parcel #'s 265-090-08,09,10. A lot line adjustment was recently approved. The site plan reflects the adjusted boundaries. CDD staff has determined that the Property is designated Open Space/Resource Conservation (OS/RC) by the General Plan and is zoned AG-40, i.e. – Agriculture with a 40 acre minimum for newly created parcels. At issue is an application for an administrative use permit which proposes the construction of three houses.
2. AG zoning typically allows for the construction of single-family homes as matter of right. Here, however, because the Property is designated OS/RC a use permit must be approved prior to issuance of a building permit, i.e. – this application. (Development Title TABLE 9-203.020 and §9-707.50. As provided by the Purpose Statement at 9-707.10: "This Chapter establishes regulations for the protection, conservation, and/or managed use of specified natural resources, including riparian habitat and mineral resources."
3. The natural resource of concern associated with the property is sand and gravel aggregate. In 2012, the California Geological Survey updated its evaluation of aggregate resources in San Joaquin County in Special Report 199. The executive summary of SR199 states: "This report updates information presented in a classification study on portland cement concrete-grade (PCC) aggregate in the Stockton-Lodi Production-Consumption (P-C) Region published in 1988. Results of that study were published by the Department of Conservation's Division of Mines and Geology (now California Geological Survey) as Special Report 160..."
4. The classification study is the first part of a two-step process of evaluating the significance of aggregate resources. "As set forth in Section 2761 (b) of SMARA, the State Geologist shall classify land solely on the basis of geologic factors and without regard to existing land use. Areas subject to mineral land classification studies are divided ...into various Mineral Resource Zone (MRZ) categories that reflect varying degrees of mineral resource potential." (SR199, p. 6) There are four zones. Mineral Resource Zone 2 (MRZ-2) are areas for which the State Geologist identifies that "adequate information indicates that significant mineral deposits are present, or where it is judged that a high likelihood for their presence exists."
5. SR199 mapping of MRZ-2 recognizes setbacks from structures such as the Delta-Mendota Canal (300' from center, SR199, p.11 ¶4 and Koster Road (20'). As such, the easterly 170' and the westerly 20' are excluded from classification. As shown on the site plan, the houses are not located within an area classified as MRZ-2.

For purposes of context and clarity, Towers' property is identified on the maps as contained in *Special Report 199*.

FIGURE 1



6. Notwithstanding classification and subsequent designation by the Mines and Geology Board of approximately 8 acres of the Property; there is no potential for excavation of aggregate resources. After the Delta-Mendota Canal was constructed, the Bureau of Reclamation sold remnants of the land acquired for the right-of-way. In the process of selling the excess right-of-way, the federal government retained all sub-surface mineral rights. The quitclaim deed to Charles Tusso, Towers' predecessor in interest, was submitted with the application. By letter dated March 20, 2000; the Bureau of Reclamation responded to Mr. Towers' questions regarding the possibility of modifying the restrictions. The body of that letter stated:

The United States Bureau of Reclamation Instructions, Chapter 8, Part 215, was in place at the time this Quitclaim Deed was issued. Part 215.8.8D(12) of these disposal instructions specifically requires the conveyance document to contain a mineral reservation to the United States. As retention of mineral rights is common practice in the issuance of patents and other Federal and private land transactions, it is unlikely that the subject mineral reservation would preclude the owner from developing the property for residential purposes. The retention of mineral rights by the United States in this case would also limit subsurface activities by other parties which could damage the Delta-Mendota Canal. Given the requirement to reserve mineral interests to the United States and the potential damage to the Delta-Mendota canal from subsurface activities, the request to remove or modify the mineral reservation cannot be accommodated.

7. In a letter responding to comments on this application dated 1/24/2026, Mr. Towers contends that the Property aggregate resources were removed from the Property when the Delta-Mendota Canal was constructed. To support this conclusion, Mr. Towers' cites his experience with the Property including review of Bureau of Reclamation records, fencing, test holes, discussions with an expert in soil science, and deductive reasoning. The Canal is lined with concrete and the required aggregate would have been mined as near as possible to a concrete batch plant. A concrete batch plant was likely located on the northerly portion of the Property as evidenced by a remaining concrete pad.
8. CDD staff have visited the site and empirical observations support Mr. Towers' conclusion that the Property has been previously mined. The Property is relatively flat, with the exception of a small overburden pile located at the very south end. Properties to the north and south of Towers' Property contain substantial excavation piles which appear to be intentionally left to prevent surface drainage into the Canal. In contrast, a sub-surface drainage system is located between the Canal and the Property. There are no trees or shrubs located on the Property. Local soils in a native state would support more substantial vegetation.
9. This portion of the Property is also adjacent to a bridge crossing of the canal. Empirically, the bridge would have been important node for construction staging as it would provide access to both sides of the Canal during construction.

10. The information upon which the State Geologist classified the Property is based information obtained from other mining operations and well logs- not any sub-surface investigation of the Property. The conclusions of the State Geologist with respect to Sector C-8 do not consider aggregate excavations associated with the Canal.
11. Mr. Towers' January 24 letter also addresses the factors of significance for designation of MRZ-2. As detailed by Mr. Towers, Sector C-8 does not meet the threshold for significance. Relevant to this point, Sector C-8 is a narrow strip sandwiched between the Canal and Koster Road. Sector C-8 extends from Towers' Property to the South over an existing six-acre homesite and then over land owned by the Bureau of Reclamation. Even if Sector C-8 met the State's technical definition for classification/designation; Towers cannot dictate what adjacent property owners or the federal government should do with their land.
12. The classification/designation process serves to inform local agencies and triggers adoption of policies. Pursuant to Public Resources Code §2715 (f), neither SMARA nor the implementing regulations may preclude "the power of any city or county to regulate the use of buildings, structures, and land..."
13. The County's 2035 General Plan, at Chapter 3.4, specifically addresses resource conservation and mineral resources. In context, the Goal (NCR-4) of the General Plan is: "To provide for the production of mineral resources while protecting people, property, and the environment from hazards caused by resource extraction.
14. NCR-4 is supported by the following policies:

NCR-4.1 Mineral Resource Protection

The County shall require mineral deposits of significant quantity, value, or quality, as identified and updated by the State Division of Mines and Geology reports as MRZ-2 Mineral Resource Zones, to remain in agricultural or open space uses until the extraction of the resources, unless the immediate area has been committed to other uses. (RDR)

NCR-4.2 Discretionary Permit to Protect Mineral Resources

The County shall require all new development in areas of significant sand and gravel deposits, as identified by the State Division of Mines and Geology, to obtain a discretionary permit, conditioned to protect the resources. (RDR)

NCR-4.3 Land Use Compatibility

The County shall ensure that mineral extraction

and reclamation operations are compatible with land uses both on-site and within the surrounding area, and are performed in a manner that does not adversely affect the environment. (RDR)

NCR-4.4 Concurrent Reclamation

The County shall encourage reclamation of mining sites concurrent with extraction activities rather than after extraction has been completed. (PSP)

NCR-4.5 Reclamation Plan

The County shall require a reclamation plan, in accordance with the State Surface Mining and Reclamation Act, to accompany all applications for mining or mineral extraction permits. (RDR/PSP)

MANDATORY FINDINGS PURSUANT DEV. TITLE 9-804.050

Prior to approving an application for a use permit, the Planning Commission must find the following seven findings (a – g) are true.

- a) **Consistency.** The proposed use is consistent with the goals, policies, standards, and maps of the General Plan; any applicable Master Plan, Special Purpose Plan, Specific Plan, and Planned Development zone; and any other applicable plan adopted by the County.

Support. This application is consistent with the goals and policies of the 2035 General Plan for the following reasons:

- NCR Goal 4, as stated above, is supported by two policies which may be considered relevant to this application, i.e. – NCR 4-1 and NCR 4-2.
- NCR 4-1 requires MRZ-2 areas “to remain in agricultural or open space uses until the extraction of the resources, unless the immediate area has been committed to other uses.” The proposed uses are not located within an MRZ-2 area. Regardless of this fact, single-unit residential use is an allowed use within the AG-40 zone. It is otherwise apparent that the Property has been previously excavated. Assuming the Property has not been previously excavated; there is no potential for excavation of this Property due to federal policy intended to protect a water conveyance system that is critical to the State of California; and, the size and shape of the MRZ-2 area will not support an excavation project as these projects require substantial acreage—typically more than 100 acres. An area that cannot be excavated is equivalent to an area that has already been excavated for purposes of this Policy.
- There are no other “plans” applicable to the Property.

- b) **Improvements.** Adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, and the proposed improvements are properly related to existing and proposed roadways.

Support. The improvements required for this project are no different than other residential use in the AG zone. The parcels front on a public road. Water will be provided by private wells. Wastewater disposal is proposed by means of typical means – septic tank and leach field.

- c) **Site Suitability.** The site is physically suitable for the type of development and for the intensity of development.

Support. The smallest of the parcels proposed for construction of a house is 2.4 acres which is plenty of room for necessary improvements. The Property is not located within a flood zone.

- d) **Land Use Compatibility.** The location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.

Support. This is a rural residential use usually permitted as a matter of right in the AG zone. Adjacent land uses are as follows: East – a service road for the Delta-Mendota Canal; South – pasture/arena associated with a residence; West – Koster Road. In terms of the “neighborhood”; land to the West of Koster Road has been excavated, but has yet to be reclaimed. The reclamation plan is for agricultural use.

- e) **No Nuisance Created.** The proposed use will not create any nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding ambient conditions.

Support. The potential environmental impacts from the development of three homes on three parcels are insignificant and exempt from CEQA review pursuant to Section 15303.

- f) **Adequate Public Services and Facilities.** The site of the proposed use is adequately served by highways, streets, water, sewer, storm drainage, and other public facilities and services.

Support. The only public service required to serve this project already exists in the form of Koster Road.

- g) **Conformance with Development Title.** The proposed use complies with all applicable provisions of this Title.

Support. See Finding #2 above.

Towers v. Cty. of San Joaquin

Court of Appeal of California, Third Appellate District

August 2, 2017, Opinion Filed

C073598

Reporter

2017 Cal. App. Unpub. LEXIS 5299 *; 2017 WL 3275178

ROGER TOWERS et al., Plaintiffs and Appellants, v. COUNTY OF SAN JOAQUIN et al., Defendants and Respondents; TEICHERT, INC., et al., Real Parties in Interest and Respondents.

Notice: NOT TO BE PUBLISHED IN OFFICIAL REPORTS. [CALIFORNIA RULES OF COURT, RULE 8.1115\(a\)](#), PROHIBITS COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY [RULE 8.1115\(b\)](#). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF [RULE 8.1115](#).

Subsequent History: Review denied by [Towers v. County of San Joaquin, 2017 Cal. LEXIS 8597 \(Cal., Nov. 1, 2017\)](#)

Prior History: [*1] Superior Court of San Joaquin County, No. 39200900231065CUWMSTK.

[Towers v. County of San Joaquin, 2014 Cal. LEXIS 5302 \(Cal., July 16, 2014\)](#)

Core Terms

trial court, ordinance, general plan, plaintiffs', permits, demurrer, cause of action, quarry, map, one-year, designation, mining, zoning, excavation, violations, notice, planning commission, leave to amend, invalidate, mitigation, parcels, challenging, statute of limitations, public interest, air quality, environmental, lawsuit, board of supervisors, bench trial, conservation

Judges: MURRAY, J.; BLEASE, Acting P. J., DUARTE, J. concurred.

Opinion by: MURRAY, J.

Opinion

The County of San Joaquin denied the application of plaintiffs/petitioners Roger Towers, Catherine Towers, and House and Land, Inc. (plaintiffs),¹ to build houses on their land. The land was in an area designated for open space and resource conservation (OS/RC) in accordance with the Surface Mining and Reclamation Act of 1975 ([Pub. Resources Code, § 2710 et seq.](#)).² Plaintiffs filed a petition for writs of traditional and administrative mandamus, a complaint for declaratory and injunctive relief, and a complaint for damages for federal civil rights violations against the County, its employee Kerry Sullivan in her official and personal capacity, and its board of supervisors (collectively, the County). The pleading named as real parties in interest (RPIs), owners/operators of mining operations in the vicinity of plaintiffs' land: Teichert, Inc., Triangle Properties, Inc., Frank J. Raspo, Erlene R. Raspo, Robert Raspo (collectively, Teichert); RMC Pacific Materials, Inc., Lone Star California, Inc., and Gerald A. Costa (collectively, CEMEX); and other real parties in interest who are not parties [*2] to this appeal.

Plaintiffs' 118-page pleading alleges the County acted improperly in (1) denying plaintiffs' request to redesignate their property, (2) granting a one-year extension for Teichert's and CEMEX's mining permits, (3) adopting ordinance No. 4381 extending mining permits for an additional two years, and (4) violating statutory requirements for implementation of general plans. According to the pleading, "[t]he objective of this

¹ House and Land, Inc., has an equitable interest (purchase agreement) in the property. House and Land, Inc., is wholly owned by the Towerses.

² Undesignated statutory references are to the Public Resources Code in effect at the time the petition was filed.

action is threefold. First is to right the imbalance that has occurred between equally important issues of great public interest in this relatively small and sparsely populated area of San Joaquin County by restoring the rule of land use and environmental law so that it is consistent, comprehensible and coherent. Second is to ensure compliance with basic planning law and environmental mitigation in the County as a whole. Third[], [plaintiffs] seek redress for the damages that [plaintiffs] have suffered as a result of the [r]espondents' maladministration of the law."

The trial court rejected some of plaintiffs' claims by demurrer, others following a bench trial, and others by summary adjudication of issues. Plaintiffs dismissed the remaining claims without prejudice. Thereafter, [*3] the trial court entered judgment against plaintiffs on all counts.

Plaintiffs' 108-page opening brief summarizes the "issues on appeal" as the County's (1) failure to prepare annual reports on the status of implementation of the general plan adopted in 1992, (2) failure to report on the status of the general plan's mitigation monitoring plans, (3) failure to implement general plan mitigation measures, (4) failure to submit ordinance No. 4381 to planning commission review, codification procedures, and environmental review, (5) approval of a one-year extension of Teichert's and CEMEX's quarry excavation permits, (6) misrepresentation of general plan land use designations by the county community development department (CDD) in 1997 so that some quarries could meet siting criteria defined by ordinance, and (7) preparation and presentation of allegedly "phony" maps after plaintiffs challenged the land use designation of their parcels.

According to plaintiffs, this case is about the County's "subversions and intolerable conduct" in deliberately failing to comply with land use planning statutes for implementation of general plans "to the benefit of mining interests." Plaintiffs' objective is [*4] to obtain a court order directing the County to "cease and desist issuance of building permits and other entitlements" until several conditions are met;³ require the County to pay for a

special master to monitor CEQA mitigation monitoring and reporting compliance; provide the special master with specified authority;⁴ and require the special master to prepare bi-monthly reports submitted to the court and plaintiffs' attorney.

As to claims of misfeasance, dereliction of duty, and subversion in violating statutory requirements for general plan implementation intertwined within each count, we conclude that plaintiffs lack standing. They lack special interest standing because they fail to show any nexus between the general implementation duties and the grievances they contend affect them, namely the OS/RC designation of their property and extensions of the neighbors' mining permits. Without such a nexus, plaintiffs have no beneficial interest sufficient for traditional mandamus relief regarding general defects in implementation of the general plan. They also lack standing to proceed as a citizens' public interest suit to challenge the County's violation of statutory duties regarding implementation [*5] of the general plan. Plaintiffs' strategy of rebranding these claims as federal civil rights violations avails them of nothing.

As to the County's actions which plaintiffs contend affected them, we conclude (1) plaintiffs' contentions about the OS/RC designation of their property are barred by the statute of limitations; (2) plaintiffs' challenge to ordinance No. 4381 is barred by failure to exhaust administrative remedies; and (3) plaintiffs' challenge to the one-year extensions of mining permits fails on the merits. Notably, this case involves only *extensions* of mining permits, not *issuance* of mining permits. The extensions merely extended the expiration dates of existing permits and did not expand the scope of activity allowed by the permits.

We affirm.⁵

Court of a plan to implement remaining mitigation associated with the CCP without prejudicing attainment of actual mitigation." Building permits for repairs to structural, electrical, plumbing, roofing, and similar building components would be exempt from plaintiffs' requested order.

⁴ As requested by plaintiffs, the special master would have "the authority to implement reasonable time frames for reporting with the intent that reporting be completed as expeditiously as possible" and the County would be "required to prepare such documentation as may be required by the [s]pecial [m]aster to identify projects for which San Joaquin County is responsible for ensuring implementation of adopted mitigation measures."

⁵ Prior to oral argument, the County filed a motion to partially dismiss on the grounds that certain causes of action

³ The conditions plaintiffs ask the court to order include: "a. complete[] a 'Progress Report[,]' as defined by San Joaquin County Development Title Chapter 9-1055 on the Status of its Comprehensive Planning Program (CCP); [¶] b. amend[] the General Plan to incorporate air quality strategies consistent with the adopted mitigation and **Government Code section 65302.1 (b)**; [and] [¶] c. prepare[] and receive[] approval by the

BACKGROUND

The Surface Mining and Reclamation Act of 1975 (SMARA)

SMARA was enacted with codified legislative findings "that the extraction of minerals is essential to the continued economic well-being of the state and to the needs of the society, and that the reclamation⁶ of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety." ([§ 2711, subd. \(a\).](#)) "It is the intent of the Legislature [⁷6] to create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operations so as to assure that: [⁸1] (a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses. [⁹1] (b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment. [¹⁰1] (c) Residual hazards to the public health and safety are eliminated." ([§ 2712.](#))

The state geologist has the duty to classify areas that contain mineral deposits and are of regional or statewide significance. ([§ 2761, subd. \(b\)\(2\).](#)) The County, as the lead agency ([§ 2728](#)) then establishes "mineral resource management policies" to be incorporated in its general plan to "[r]ecognize mineral

addressed in this appeal are moot because the County adopted a new general plan in December 2016. Additionally, the County requested we take judicial notice of various documents submitted in support of the motion. We granted the request for judicial notice so that it is clear we reviewed everything the County submitted, but denied the motion to partially dismiss.

⁶ "Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures." ([§ 2733](#))

information classified by the State Geologist," "[a]ssist in the management of land use which affect areas of statewide and regional significance," and "[e]mphasize the conservation and development of identified mineral deposits." ([§ 2762, subd. \(a\)\(1\)-\(3\).](#))

The State Mining and Geology Board (SMGB) ([§ 2008](#)) is authorized to adopt regulations to implement SMARA. ([§ 2755.](#)) One [⁷7] such regulation, [California Code of Regulations, title 14, section 3676](#), authorizes agencies to create overlay maps to delineate identified mineral deposits and those areas targeted by the lead agency for conservation and possible future extraction, and to create special purpose overlap zones to restrict the encroachment of incompatible land uses in those areas that are to be conserved.

Factual Background⁷

In March 2001, the Towerses bought three adjacent parcels of land totaling approximately 19 acres in the Vernalis area in southern San Joaquin County.⁸ The land, a narrow strip running north-south, is bound on the east by the Delta-Mendota Canal and on the west by aggregate mining operations.

The nearby land with the mining operations and most of plaintiffs' three parcels are in an area designated by the County as OS/RC, an area of regional significance containing significant mineral resources ([§ 2726](#)), specifically the "Tracy East Area" of the general plan's conservation element. This designation followed the classifications of such properties as being within the Mineral Resource Zone, MRZ-2. The state geologist gave the properties this classification in 1988 and reiterated it in 2012. In accordance with SMARA, the County in its "General [⁸8] Plan 2010," adopted July 29, 1992, included within the general plan conservation element a "General Plan 2010 Map" designating specific areas as OS/RC to protect significant natural resources areas.

⁷ Because some of plaintiffs' claims were decided on demurrer based on the complaint's allegations, our summary of the factual and procedural background includes the pleading's factual allegations where appropriate. We also include, as background, events dating back to 2002, long before plaintiffs initiated this lawsuit in 2009, because plaintiffs attempt in this current lawsuit to revive stale claims. We explain why those attempts fail, *post*.

⁸ The County's brief incorrectly states that the land is 10 acres.

The OS/RC requirements of the general plan were implemented through the County's zoning code, which the County calls "Development Title." (See San Joaquin County Code, title 9; hereafter, Development Title.) Development Title, chapter 9-1525, is entitled "Mineral Resources Protection." Development Title, chapter 9-1525, section 9-1525.1, states: "The intent of Chapter 9-1525 is to 'provide regulations to protect mineral resources that are shown as [OS/RC] on the General Plan 2010 Map from urban development or encroachment and to manage the production of such mineral resources in an environmentally sound manner.'" The Development Title specifies that landowners who want a "nonextractive project" such as a residence in an area of significant sand and gravel deposits, must file an application for site approval with the County, which has discretion to approve or disapprove it.

Before plaintiffs purchased the three parcels in 2001, plaintiffs consulted with County staff. Staff informed plaintiffs that the property [*9] was designated OS/RC in the county general plan adopted on July 29, 1992, and plaintiffs could not build on the land without first obtaining a "site approval" from the County, which the County had discretion to approve or disapprove.

When plaintiffs purchased their property, Teichert already had a quarry excavation permit (QX-91-5), conditionally approved by the County in 1992. In the 1992 approval, the County found the quarry project would cause significant unavoidable environmental effects on air quality, but overriding considerations of the economic importance of mineral resources were substantial. In 1996, the County granted Teichert a one-year extension (not the extension at issue in this case).

In 2002, the Towerses applied for site approval to build a house on each of the three parcels, plus an accessory dwelling on the largest parcel. The application was administratively approved by county staff but two mining companies, who were applying for quarry excavation permits in the area, appealed. The planning commission subsequently granted the appeal and revoked the Towerses' site approval permits on January 9, 2003. The Towerses appealed to the board of supervisors, which denied [*10] the appeal on March 25, 2003.

Thereafter, the Towerses submitted a preliminary application for a general plan amendment to change their property's designation. They withdrew the application when they learned the County was not approving applications that created additional demand

on groundwater.

On February 24, 2004, the Towerses filed an administrative appeal of the County's determination that their property is within the OS/RC land use area. Plaintiffs argued their property should be designated general agricultural (AG), which would mean they could build their houses as a matter of right with building permits, rather than needing discretionary approval from the County. Plaintiffs allege in this lawsuit that, unbeknownst to them, the County's planning staff modified the boundary and data for the OS/RC district on March 4, 2004. Plaintiffs also allege that, at the planning commission hearing to consider their appeal on or about April 1, 2004, CDD staff "phony" maps, which were unauthorized versions of the general plan map. Plaintiffs alleged CDD misrepresented that a map prepared using new technology, the County's geographical information system, had been compared to and conformed with [*11] the originally adopted general plan map.

The planning commission denied the Towerses' administrative appeal seeking redesignation.

Thereafter, the Towerses appealed to the board of supervisors, which denied the appeal on April 27, 2004.

On June 18, 2004, plaintiffs filed in the trial court a writ petition (which is not the subject of this appeal) seeking judicial review of the County's refusal to redesignate their property. However, plaintiffs did not prosecute that case. As alleged in the current pleading, plaintiffs—"[s]eeking a remedy as a less costly and more efficient alternative to litigation"—explored settlement and asked the County for a "Development Title" (zoning) amendment to allow non-extractive projects for parcels within the OS/RC area for which excavation was infeasible. The County ultimately rejected plaintiffs' proposed zoning amendment in June 2008. Plaintiffs applied for a permit to use their land for a truck-parking facility with a residence for "security." The County denied the application for a residence. In October 2009, the trial court dismissed the 2004 writ petition, without prejudice, due to plaintiffs' failure to bring the matter to trial within five years ([Code Civ. Proc., § 583.310](#)).

Meanwhile, [*12] in 2005 and 2006, Teichert applied to expand the area of its quarry excavation permit. In 2007, the planning commission certified an environmental impact report (EIR), finding overriding considerations for approval despite significant unavoidable impacts, and approved the quarry excavation permit. Plaintiffs objected and appealed to

the board of supervisors. But as plaintiffs' acknowledge in their pleading in the current lawsuit, they "elected to negotiate a settlement agreement with Teichert, and withdrew their appeal on December 10, 2007, and the modification of Quarry Excavation Permit QX-91-5 for expansion to the Vernalis East & West areas became final." Plaintiffs allege they were "induced" to drop the appeal of the Teichert project because they thought the County was going to approve their application for the zoning amendment.

In July 2008, the County approved a quarry excavation permit for CEMEX after certifying an EIR, findings of significant environmental effects, and overriding considerations. Plaintiffs did not object.

Plaintiffs allege that, on or about July 14, 2009, the board of supervisors determined that plaintiffs' parcels are not suitable for mineral excavation.⁹

In 2009, [*13] Teichert and CEMEX applied for one-year extensions of their mining permits, due to the decline in the economy. These are the extensions challenged by plaintiffs. CEMEX asserted: "The global economic meltdown has reduced demand for construction products including aggregate, which has made it economically infeasible for Cemex to prepare for and commence operations at the Vernalis Quarry according to the original planned schedule."

In July 2009, the County approved the one-year extension for Teichert's and CEMEX's mining permits, after adopting a negative declaration that no EIR was required because no change in the permit conditions was sought.¹⁰ Plaintiffs challenged the one-year extensions and the board of supervisors, after a public hearing in December 2009, rejected plaintiffs' challenge.

⁹ The designation of an area as having significant mineral resources also protects the area from encroachment by incompatible land uses. (*Cal. Code Regs., tit. 14, § 3676*.) Plaintiffs argued at the planning commission hearing in April 2004 that very low density development is not incompatible with mineral resource development. This appeal does not require us to address whether plaintiffs' proposed houses would be incompatible, but we note that the fact the mining operations were there first would not necessarily preclude residents of any such houses from complaining that the mining operations were a nuisance. (47 Cal.Jur.3d (2010) Nuisances, § 82.)

¹⁰ The County argues on appeal that it was not actually required to do a negative declaration, because nothing changed.

On September 29, 2009, the board of supervisors adopted "Ordinance No. 4381," "extend[ing] by twenty-four (24) months the expiration date of any site approval, use permit, or quarry excavation permit that had not expired on July 15, 2009." Ordinance No. 4381 stated: "On July 15, 2009, the California Legislature enacted AB 333 as an urgency ordinance extending the life of certain tentative maps twenty-four (24) [*14] months. This was in addition to the twelve-month extension for certain tentative maps provided by SB 1185, enacted July 15, 2008. The Legislature enacted SB 1185 and AB 333 in order to preserve development projects that could not proceed because of adverse economic conditions in the construction industry. Because the economy has not significantly improved and local conditions for the construction industry remain difficult, this Ordinance grants a similar extension for site approvals, use permits, and quarry excavation permits." The ordinance specified the extension was being adopted "[n]otwithstanding the provisions of Section 9-215.14¹¹ and Section 9-220.13¹² of the Development Title of San Joaquin County"

The Pleading

Plaintiffs initiated this lawsuit on December 1, 2009. On October 12, 2010, plaintiffs filed the operative pleading in this appeal — the "Second Amended Petition for Writ of Mandate to Compel Performance of Mandatory Duties; Complaint for Declaratory and Injunctive Relief; Petition for Writ of Mandate to Review Administrative Decisions; Complaint for Damages for Violation of Civil Rights Under Color of Law."

¹¹ Development Title, chapter 9-215, section 9-215.14, provides: "Unless otherwise specified, approved applications shall lapse and become void eighteen (18) months after the effective date of approval if any of the following occur: [¶] (a) Requirements or Conditions. A standard requirement or condition of approval has not been complied with; [¶] (b) Building-Related Permits. A required building, electrical, plumbing, or mechanical permit that has been secured has lapsed and become void; or [¶] (c) Other Permits. A required permit that has been secured from any other public agency has lapsed and become void." (Adopted by San Joaquin Ord. No. 3675, July 29, 1992.)

¹² Development Title, chapter 9-220, section 9-220.13, contains the same language as section 9-215.14, except section 9-220.13 speaks of approved applications "for nonlegislative actions" and cites ordinance No. 3675 and No. 3715 (adopted March 9, 1993).

In their pleading, plaintiffs label five "causes of action" for five remedies they seek:

(1) A [*15] petition for writ of mandate, pleaded as both traditional mandate and administrative mandate, to invalidate County's ordinance No. 4381 — which extended mining permits for two years — on multiple grounds including alleged violations of the California Environmental Quality Act (CEQA, [§ 21000 et seq.](#)) and land use planning laws ([Gov. Code, § 65009 et seq.](#));

(2) Declaratory and injunctive relief ([Code Civ. Proc., §§ 1060, 525, 526, 527](#)) to declare mining permits and extensions void and to require the County to comply with multiple land use planning laws regarding its general plan;

(3) Petition for writ of administrative mandate ([Code Civ. Proc., § 1094.5](#)) seeking to require the County to change the general plan's OS/RC designation for plaintiffs' property;¹³

(4) Petition for writ of administrative mandate to invalidate the County's grant of one-year extensions for the mining permits of Teichert and CEMEX; and

(5) A claim for money damages for alleged civil rights violations ([42 U.S.C. § 1983](#)), claiming the County's actions deprived plaintiffs of property interests in violation of federal due process and equal protection. This count also alleged fraud by defendant Sullivan.

The Demurrers

The County, Teichert, and CEMEX filed separate demurrers — the grounds of which are made apparent in the following summary [*16] of the trial court's rulings.¹⁴

The County's Demurrer

In June 2011, the trial court issued an order sustaining

the County's demurrer, without leave to amend, as to the third cause of action (writ petition challenging the OS/RC designation), on the ground it was barred by the three-year statute of limitations of [Code of Civil Procedure section 338, subdivision \(d\)](#).¹⁵ The court ruled that the pleading filed in December 2009 was not filed within three years of the board's April 2004 denial of plaintiffs' request to change the designation of their land. The trial court observed it previously sustained the County's demurrer (*with leave to amend*) as to the same claims in plaintiffs' first amended pleading on the same ground, and "[n]othing has really changed . . ."

Addressing plaintiffs' allegations that they did not know and, in the exercise of reasonable diligence, could not have known between 2004 and 2008 that the County was misrepresenting the facts in their maps, the trial court rejected plaintiffs' reliance on the doctrines of delayed discovery, equitable tolling, or fraudulent concealment. The court noted, "a significant fact is the admission/allegation that at the Planning Commission hearing on the issue which was held on April 1, 2004, [plaintiff] [*17] Roger Towers asserted that the maps were wrong or in error."¹⁶ The court also noted the pleading's allegations that plaintiffs retained the law firm of Miller Starr Regalia on February 18, 2005, specifically to review the 2004 writ petition; hired another law firm to review the 2004 petition in August 2006, and submitted a public records request by October 2007. The court stated, "As pled, there is no showing of diligence in pursuing the information which is now the basis of this writ petition. In fact, [plaintiffs] had presumptive knowledge that the maps were wrong and yet, allowed their timely challenge to the April 27, 2004 decision to uphold the OS/RC designation to lapse and ultimately, be dismissed."

The trial court also stated there was no basis for equitable tolling of the limitations period, because plaintiffs "immediately challenged the County's action and decision regarding the OS/RC designation in 2004 which is the same decision being challenged in this 2009 writ petition[]" but admittedly, they did not pursue

¹³ Plaintiffs, recognizing this stale claim dated back to the County's 2004 denial of their request for redesignation, invoked the delayed discovery rule for fraud and alleged they did not discover until recently and could not have earlier discovered that the County used "phony maps."

¹⁴ This court denied plaintiffs' several writ petitions to this court (Nos. C068959, C071780, & C072272), including challenge to the rulings on demurrer.

¹⁵ [Code of Civil Procedure section 338, subdivision \(d\)](#), provides a three-year statute of limitations for "[a]n action for relief on the ground of fraud or mistake."

¹⁶ The pleading alleged: "In response to [plaintiff] Roger Towers' assertions at the Planning Commission hearing on April 1, 2004 that the maps were wrong or in error: Sullivan stated: '[T]he designation in fact is not wrong. It's Mr. Towers' opinion that it is wrong. We stand by our maps.'"

the writ because they decided to pursue other avenues of resolution[] . . . [¶] *There was nothing defective in the first action; it was simply not pursued.* Petitioners [*18] had a sense that something was wrong with the General Plan map; they had an opportunity to conduct discovery and get to the bottom of the issue, but they chose not to do so until 2007. There is no allegation that they were persuaded or otherwise misled into non-action with regard to the 2004 writ petition. Moreover, pursuing legal action and pursuing other avenues of resolution w[e]re not mutually exclusive options."

The trial court noted that plaintiffs at oral argument raised the issue of fraudulent concealment as an "adjunct" of the delayed discovery doctrine. The trial court rejected the argument for three reasons.

First, there was no fraudulent concealment inducing plaintiffs to refrain from filing suit; to the contrary, plaintiffs timely filed suit.

Second, the allegations, "when read as a whole, allege that an error was made by County/County employees in interpreting and/or applying the maps and the various planning and zoning laws and those errors have le[d] to County's misrepresentations and/or perpetration of false information. There is absolutely no factual allegation that such errors were knowingly, willfully or purposefully done with the intent to induce [plaintiffs] —or anyone— to [*19] refrain from filing suit or otherwise taking action to protect their interests. The allegations are to the effect that there is a difference of opinion between [plaintiffs] and County about the laws, their interpretation and their application."

The court noted just one allegation of *intentional* misrepresentation, i.e., that defendant Sullivan "intentionally misrepresented the intent and background . . . Her testimony was false and is substantially, if not wholly contradicted by either her own prior comments or representations or the comments/representations of other . . . staff members . . ."

The court also noted the pleading contained conclusions of fraud, e.g., the allegation that plaintiffs had no basis to believe between 2004 and 2008 "that county staff had engaged in fraudulent conduct." The court correctly noted that demurrers concede the truth of factual allegations only, not legal conclusions. ([Stearn v. County of San Bernardino \(2009\) 170 Cal.App.4th 434, 439-440, 88 Cal. Rptr. 3d 330](#) (Stearn).)

The third reason the trial court gave for rejecting fraudulent concealment was that "[plaintiff] Roger

Towers did not allege that he was misled or otherwise relied upon the statement and representations made by County in deciding not to pursue the 2004 writ. He had admitted [*20] that he decided to seek alternative resolutions, negotiate, and settle his issues with the County. . . . Moreover, the allegations of the [second amended petition] establish that Roger Towers is a planner and therefore, familiar with planning laws, their interpretation and application. . . . His actions (that is, immediately filing the 2004 writ petition) show he did not believe or otherwise rely or accept the statements and explanations given by the County in their staff reports and presentations. [¶] Accordingly, fraudulent concealment has not and cannot be adequately pled by [plaintiffs] as a means to toll the statute of limitations for the Third Cause of Action."

Teichert's Demurrer

In June 2011, the trial court issued an order sustaining Teichert's demurrer to the second and fourth causes of action, without leave to amend.

As to the second count, the trial court noted that plaintiffs urged that it involves much more than the propriety and/or validity of the quarry permits. According to plaintiffs, the cause challenges the permits, and the policies and practices of the County by which the permits were approved and extended. The trial court ruled as follows:

"To be sure, the only interest [*21] TEICHERT and the other RPIs have in this action is the validity of their quarry permits. In the demurrer, there is no discussion of the underlying policies, practices, etc. of the County in approving and/or extending the quarry permits. Yet, those permits, according to [plaintiffs], are the sum result of the errors of the County in interpreting the General Plan, implementing its policies, etc. In other words, according to [plaintiffs], the validity of the quarry permits depends upon the propriety of the County's actions. The problem- [plaintiffs] argue- is that the RPI[s'] demurrers presume the propriety of the County's actions. The Second Amended Petition, however, challenges the County's action which, in turn, affects the RPIs' permits.

"In previously addressing the RPIs' demurrer[] to the Second Cause of Action [in the prior pleading], the Court sustained the demurrer, with leave to amend, on grounds of uncertainty explaining that 'it is unclear from the allegations of the Second Cause of Action whether the individual permits are being challenged and/or are

the focus of the requested declaratory/injunctive relief or whether the permitting process was the focus of the cause of action. [*22] Leave to amend was granted in order to allow [plaintiffs] to clarify that point."

The trial court noted that the current pleading sought to remedy past wrongs by attacking individual quarry permits issued in 1992, 2007, and a one-year extension granted on July 16, 2009. Plaintiffs filed an administrative appeal of the 2007 permit but elected to settle that case. Plaintiffs filed an administrative appeal of the July 2009 grant of the extension; the board of supervisors denied the appeal on December 8, 2009. Plaintiffs initiated this lawsuit on December 1, 2009.

The trial court observed that [Government Code section 65009, subdivisions \(c\)\(1\)\(E\)](#) and [\(e\)](#), provides a 90-day statute of limitations.¹⁷

Accordingly, the trial court ruled that plaintiffs' challenges to the 1992 permit and the 2007 permit were barred by the statute of limitations. Only the challenge to the 2009 extension remained viable from the statute of limitations perspective.

The trial court then agreed with another ground for demurrer asserted by Teichert—the conditional use permits at issue here may be challenged only by administrative mandate, not declaratory relief. The court added, "The issue of whether the Second Cause of Action was a challenge to the permits or to the permitting [*23] process was raised at the last demurrer and [plaintiffs] were asked to clearly state their cause and request for relief. The Second Amended Petition ('SAP') was amended to exclude some of the direct attacks on the quarry permits, but attacks, nonetheless, remain and there is a request for relief which, in effect, seeks to invalidate already approved quarry permits and their extensions."

¹⁷ [Government Code section 65009](#) provides in part: "(c)(1) . . . [N]o action or proceeding shall be maintained in any of the following cases by any person unless the action or proceeding is commenced and service is made on the legislative body within 90 days after the legislative body's decision[] [¶] . . . [¶] (E) To attack, review, set aside, void, or annul any decision on the matters listed in [Sections 65901](#) [decision on applications for conditional uses and other permits under zoning ordinances] and 65903, or to determine the reasonableness, legality, or validity of any condition attached to a variance, conditional use permit, or any other permit. [¶] . . . [¶] (e) Upon the expiration of the time limits provided for in this section, all persons are barred from any further action or proceeding."

The trial court sustained Teichert's demurrer to the second count without leave to amend.

As to the fourth count, which challenged the County's approval of the one-year permit extension, the trial court sustained Teichert's demurrer without leave to amend as to the CEQA claim, because the one-year extension was not a "project" triggering a need for CEQA review. As to plaintiffs' argument that the extension could not rely on the previously-adopted EIR and required at least a "[n]egative [d]eclaration," the court replied that in order for CEQA to be implicated, there must be a need for supplemental review, but the pleading contained no allegation of a new or changed activity with significant environmental impact warranting supplemental review. Instead, the pleading merely alleged changed circumstances, i.e., "corrected information" [*24] to consider as part of the EIR. That is not the test." The court noted it had given plaintiffs the opportunity to amend the previous pleading and had specifically advised plaintiffs of the need to include an appropriate allegation, but none was included in the second amended petition.

CEMEX's Demurrer

In June 2011, the trial court issued an order sustaining the demurrer in part, without leave to amend, stating:

"As to the CEMEX's demurrer to the First Cause of Action

"As to the ground that Ordinance 4381 is not subject to a CEQA challenge, the demurrer is sustained without leave to amend. As to the ground that retroactive application of Ordinance 4381 is unconstitutional, the demurrer is sustained without leave to amend. As to the ground that [plaintiffs'] challenge to Ordinance 4381 on the basis that County failed to prepare and file annual reports and maintain mitigation monitoring, and the action is barred by the statute of limitations, the demurrer is overruled.

"As to CEMEX's demurrer to the Second Cause of Action

"As to CEMEX's demurrer to the Second Cause of Action on the ground that declaratory relief is neither proper nor available to remedy past wrongs or attack individual quarry [*25] excavation permits already approved, the demurrer is sustained without leave to amend.

"As to CEMEX's demurrer to the Fourth Cause of Action

"As to CEMEX's demurrer to the Fourth Cause of Action on the ground that CEQA is not applicable because the extension granted is not a project, the demurrer is sustained without leave to amend." (Boldface omitted.)

[section 65853](#)¹⁸ provided that if the planning commission failed to review the matter, it was deemed to have approved the ordinance.¹⁹

The trial court stated that even if plaintiffs' claims were not barred by failure to exhaust administrative remedies, their claims failed on the merits.

Summary of Orders on Demurrers

The trial court sustained without leave to amend:

1. The County's demurrer to the third count;
2. Teichert's demurrer to the second count in its entirety, and the CEQA claim in the fourth count.
3. CEMEX's demurrer to the first count as to the claims about CEQA and retroactive application of the ordinance, to the second count in its entirety, and the CEQA claim in the fourth count.

Failure to Codify Ordinance

Regarding [*27] plaintiffs' argument that the County's failure to codify ordinance No. 4381 invalidated the ordinance, the trial court stated plaintiffs cited no authority supporting their position. To the contrary, said the court, case law holds that the omission of a legislative enactment from codified compilation is without legal significance, and the enactment still has force. (*In re A.G. (2010) 186 Cal.App.4th 1454, 1461, 113 Cal. Rptr. 3d 593.*)

Bench Trial and Trial Court's Order

On May 18, 2012, the trial court conducted a bench trial on the first and fourth counts seeking writs of mandate to invalidate ordinance No. 4381 and to invalidate the one-year extension of mining permits. No witness testified. The trial court heard argument from the attorneys and accepted documentary evidence.

On June 29, 2012, the trial court issued a 26-page written order denying plaintiffs' petition [*26] for writs of mandate in the first and fourth counts, as follows:

First Count - Ordinance No. 4381

Failure to Exhaust Administrative Remedies

The trial court first concluded plaintiffs lacked "standing" to challenge ordinance No. 4381, because they failed to exhaust administrative remedies, finding that no one made an administrative challenge to ordinance No. 4381 on the basis of procedural defects or planning or zoning violations. The trial court rejected plaintiffs' argument that the County's undisputed failure to submit the ordinance for planning commission review rendered the ordinance void *ab initio*. The court ruled that even if the County were required to submit the matter to the planning commission, the failure to do so did not invalidate the ordinance. Rather, [Government Code](#)

Planning and Zoning Law Violations

The trial court noted plaintiffs did not attack the validity of the general plan and did not contend the general plan violated the law. Instead, they argued the County had failed to follow through with reporting procedures,

¹⁸ [Government Code section 65853](#) provides: "A zoning ordinance or an amendment to a zoning ordinance, which amended changes any property from one zone to another or imposes any regulation listed in [Section 65850](#) not theretofore imposed or removes or modifies any such regulation theretofore imposed shall be adopted in the manner set forth in [Sections 65854 to 65857](#), inclusive. Any other amendment to a zoning ordinance may be adopted as other ordinances are adopted. [¶] *When the legislative body has requested the planning commission to study and report upon a zoning ordinance or amendment which is within the scope of this section and the planning commission fails to act upon such request within a reasonable time, the legislative body may, by written notice, require the planning commission to render its report within 40 days. Upon receipt of the written notice the planning commission, if it has not done so, shall conduct the public hearing as required by Section 54854. Failure to so report to the legislative body within the above time period shall be deemed to be approval of the proposed zoning ordinance or amendment to a zoning ordinance.*" (Italics added.)

¹⁹ In our view, [Government Code section 65853](#) does not apply, even if the ordinance fell within the scope of the statute, because the planning commission was not asked to review the ordinance.

development, monitoring, or amendments relative to the general plan. The trial court noted the claimed planning and zoning violations were not specific to ordinance No. 4381. They fell into two categories:

1. General plan deficiencies, specifically the County's failure to: (a) submit annual status reports, (b) implement the general plan's call for objective development standards, (c) amend the general plan elements to incorporate air quality strategies, and (d) report on and implement general plan mitigation measures.

2. An ordinance violation in that the County failed [*28] to map ARM (Agricultural Resource Management) zones.

As to the first category, the trial court determined the alleged deficiencies did not render ordinance No. 4381 void, because plaintiffs failed to show the violations were relevant to the ordinance. The court stated that the only concern that could arguably be characterized as a criteria violation was the alleged failure to amend the general plan elements to include strategies to improve air quality. (*Gov. Code*, § 65302.1, *subd. (b)*.) However, plaintiffs must also show relevancy of that alleged failure to ordinance No. 4381, which plaintiffs failed to do. The trial court stated, "Petitioners proceed on the logic that the existence of a deficiency alone nullifies the ordinance. Such a showing is insufficient to nullify Ordinance 4381."

As to the second category, the court noted that Development Title, chapter 9-105, section 9-105.6, imposed on the County the duty to map the ARM zones it adopted, and the County admitted it had not done so. The court stated, "The pertinent question is, 'What is the relevancy of the County's failure to map ARM zones to Ordinance 4381?' Again, no connection is made or argued by [plaintiffs]. Without a showing of relevancy, the mere fact that County [*29] failed to map the ARM zones is insufficient to nullify Ordinance 4381."

Fourth Count - One-Year Extensions

The trial court noted plaintiffs sought a writ of administrative mandate (*Code Civ. Proc.*, § 1094.5)²⁰

²⁰ *Code of Civil Procedure section 1094.5, subdivision (b)*, provides: "The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of, jurisdiction; whether there was a fair trial; and

on the grounds that they did not have a fair hearing, and that the County, by failing to consider planning and zoning law deficiencies, failed to proceed in the manner required by law. The trial court set forth the following factual findings:

On April 29, 2009, Teichert applied for a one-year extension of its quarry excavation permit, seeking a new expiration date of June 11, 2010. On July 16, 2009, the planning commission held a public hearing, where plaintiffs appeared and argued the general plan was inadequate and invalid, the general plan map was inconsistent, and mitigation measures had not been monitored. The planning commission approved the extension. On July 22, 2009, plaintiffs filed an administrative appeal. The hearing on that appeal was heard on December 8, 2009 (seven days after plaintiffs initiated this lawsuit). Plaintiffs lost the administrative appeal and amended their court pleading accordingly.

In July 2009, CEMEX separately requested a one-year extension of its quarry excavation permit, [*30] to expire on February 11, 2011. On September 3, 2009, the planning commission held a public hearing, at which plaintiffs appeared and opposed the extension. The planning commission approved the one-year extension. Plaintiffs filed an administrative appeal, which was heard the same day as the administrative appeal of Teichert's extension, and plaintiffs lost the appeal.

The trial court's order following the bench trial then addressed the issues on the fourth count, as follows:

Fair Hearing

Plaintiffs claimed the administrative hearing was unfair because the County did not provide them with copies of the staff reports and recommendations and complete history of environmental determinations until five days before the hearing, and the County denied their request for a continuance. The trial court noted plaintiffs did not present any facts or argument concerning historical documents. The court noted the documents (staff reports/recommendations and responses to plaintiff's arguments) consisted of only 94 pages total, and five days seemed adequate, considering that *Government Code section 65804* requires only that staff reports be

whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence."

made available "prior to or at the beginning of" a public hearing. The trial court added [*31] that plaintiff Roger Towers admitted he is experienced with land use documents, and that plaintiffs' lawyer at the administrative hearing specialized in land use planning. As to the denial of the continuance, the trial court observed that plaintiff's letter requesting the continuance had contained a detailed outline of all the grounds they asserted in their administrative appeal and in the lawsuit they filed several days before the administrative appeal hearing. The request for a continuance suggested "all parties would benefit from the opportunity to step back and look at these issues carefully" and surmised the County had not had the opportunity to fully review the lawsuit's allegations. The trial court concluded, "The continuance had nothing to do with [plaintiffs] needing more time to look at the staff reports and recommendations."

Whether County Proceeded According to Law

The trial court ruled plaintiffs' arguments about the fourth count — challenging the one-year extensions — reiterated the same defects cited in their challenge to ordinance No. 4381 and failed for the same reasons already stated by the court.

The trial court discussed plaintiffs' arguments that the one-year extensions [*32] violated three County ordinances: Development Title, chapter 9-854, section 9-854.2, Development Title, chapter 9-1525, section 9-1525.2, and Development Title, chapter 9-881, section 9-881.3. Plaintiffs had raised the first two points, without success, at the administrative hearing.

Development Title, chapter 9-854, section 9-854.2, allows acceptance of quarry excavation permits in AG and AU zones, provided that: "(1) Areas for excavation are designated 'Resource Conservation' on the County General Plan Map and the [SMGB] has identified the areas as construction aggregate deposits of regional significance; [¶] (2) The portion of the property to be excavated contains substantial deposits of mineral resources, or a portion of a deposit of substantial mineral resources; or [¶] (3) For areas zoned AG, the Farmland Mapping and Monitoring Program's soil classification for that portion of the property to be excavated is neither Prime Farmland, Farmland of Statewide Significance, nor Unique Farmland." (Italics added.) The trial court rejected plaintiffs' argument that Development Title, chapter 9-854, section 9-854.2, required that both subdivisions (1) and (2) must be met.

Development Title, chapter 9-1525, section 9-1525.2, subdivision (c), prohibits "[e]xtractive projects that would have irreversible, deleterious [*33] environmental effects that cannot be mitigated." Plaintiffs argued the one-year extensions of the CEMEX and Teichert permits would result in such significant impacts. The trial court noted plaintiffs failed to make any showing on the matter.

Development Title, chapter 9-881, section 9-881.3, provides that applications for permit extensions "shall be reviewed using the review *procedure* required for the original development application." (Italics added.) The trial court ruled that the procedures *were* followed and, contrary to plaintiffs' position, nothing in the ordinance required a *substantive* review of the original project/permit.

Summary of Order Following Bench Trial

The trial court denied plaintiffs' petition for a writ of mandate on ordinance No. 4381 (first count) because plaintiffs lacked standing, having failed to exhaust administrative remedies; the absence of planning commission action did not render the ordinance void *ab initio*; plaintiffs had not established that the cited deficiencies nullified the ordinance; and lack of codification was without legal consequence.

The trial court denied plaintiffs' writ petition regarding the one-year permit extensions (fourth count) because plaintiffs received [*34] a fair administrative hearing; they did not establish that the cited general plan deficiencies invalidated the extensions; they did not establish a violation of the Development Title; and accordingly, they failed to show that the County did not proceed according to law.²¹

Summary Adjudication of Issues

The County moved for summary adjudication of issues ([*Code Civ. Proc.*, § 437c, subd. \(f\)\(1\)](#)) as to the fifth count alleging civil rights violations. The County contended no triable issue of material fact existed for

²¹ After the order on the bench trial, on September 5, 2012, the trial court granted CEMEX's motion for judgment on the pleadings in favor of CEMEX as to the second cause of action for declaratory or injunctive relief. The court stated the motion was "just a formality," given the court's ruling on CEMEX's demurrer.

the following reasons:

1. "The crux of [plaintiffs' claims] is that the Towers were entitled to an agricultural general plan designation for their parcels, and were wrongly denied the ability to construct residences on those parcels 'as of right.' Yet, because the Towers failed to pursue their challenge to the County's 2004 determination that their property has a resource conservation designation, requiring discretionary site approval, the propriety of the resource designation is now conclusively established. Consequently, the Towers have not been deprived of any right to build to which they were entitled, and they lack a sufficient 'property' interest to support either of their due process claims [procedural and [*35] substantive]."

2. "Even if the Towers could demonstrate a valid property interest, they cannot demonstrate a triable issue of fact as to their procedural due process claim. Under [case law], the Towers had adequate post-deprivation remedies under California law to redress any violation of their procedural rights. Their failure to have fully pursued these remedies—specifically, traditional and administrative mandamus—does not allow them to seek alternative relief under Title [42 of the United States Code, section 1983](#)."

3. "Equally, even if the Towers can prove a sufficient property interest, their substantive due process claim still must fail. There is no triable issue of fact that the Towers' parcels, along with the surrounding quarry properties, are classified and designated under state law as containing significant mineral deposits. There equally is no triable issue of fact as to the County's obligation to conserve and protect these mineral resources through appropriate general plan policies and zoning regulations. That the County required discretionary approvals for the Towers' proposed houses, and that the County denied the Towers' request for such approval, were consistent with both the letter and spirit of state law. As [*36] a result, the Towers could not demonstrate at trial that the County lacked a rational basis for the challenged actions and decisions."

4. As to the alleged equal protection claim, "the Towers could not demonstrate at trial that the County has treated them differently from others who are similarly situated. The residences that have been built on properties bearing the same resource designation as the Towers' parcels were built several years ago, prior to the adoption of the current general plan, or are not located near mineral-resource properties. Only one

residence near the Towers' parcels, built in 2001, was allowed within the same resource designation, and such approval was clearly granted in error. These facts would not enable the Towers to demonstrate they were treated differently from those similar to them 'in all relevant respects,' as the cases require."

5. "The Towers also cannot demonstrate a triable issue of fact as to the lack of a rational basis for any dissimilar treatment they could prove. As noted, the classification and designation of the Towers' and surrounding properties, coupled with the County's clear obligations under state law to conserve and protect mineral resources, [*37] would defeat any facts that could cast the County's actions and decisions in any arbitrary light."

6. "Finally, even if the Court does not grant summary adjudication on any or all of the above grounds, it still should grant judgment in favor of Sullivan. The Towers cannot demonstrate that her conduct violated any constitutional right or that any such right was 'clearly established' at the times alleged. For this reason, Sullivan would have qualified immunity as to any [section 1983](#) violations that could be proven."

Plaintiffs opposed the motion, claiming they have a constitutional right to devote their land to any legitimate use, and the County failed to implement ARM zoning, failed to enforce quarry permit conditions (the original expiration dates), misrepresented general plan land use designations, misrepresented maps and policies, all with the intent to benefit the mining operations and harm plaintiffs. Plaintiffs also argued the court must deny the motion because it failed to dispose of an entire cause of action.

On January 8, 2013, the trial court issued a written order granting summary adjudication in favor of the County on the due process issue, stating, "County has carried its burden of showing [*38] that Towers does not have a constitutionally protected property interest in a Site Approval or in the enforcement of conditions and/or ordinances relating to RPIs [real parties in interest] excavation permits. Therefore, Towers cannot establish the required elements for the due process cause of action."

However, the trial court denied the County's motion as to plaintiffs' equal protection claim, stating, "County acknowledges that there may be at least one similarly situated property which was given permission to build a residence. County states, 'At best, [Towers] could show that one party was mistakenly allowed to construct a

residence in the OS/RC designation without obtaining a discretionary approval.' [Citation to motion submissions.] Critically, County offers no admissible evidence to establish that the different result was a mistake. Whether it was a mistake or not is a question of fact."

The trial court also granted summary adjudication in favor of defendant Sullivan on all claims alleged in the fifth count. The court stated, "It is undisputed that Sullivan did not have authority to take final action with respect to Towers' applications. [Citation.] Accordingly, Sullivan has made [*39] a prima facie showing that she did not violate Towers' right to equal treatment because she did not treat Towers differently; she did not deny the Site Approval application. Towers failed to submit evidence to raise a triable issue on this point. Instead, he makes a cursory legal argument: 'Sullivan cannot evade liability simply by saying she was following orders.' [Citation.] As a result of Sullivan being granted summary adjudication to all claims alleged against her in the Fifth Cause of Action, she is dismissed as a party to this lawsuit."

The Judgment

On March 21, 2013, the trial court entered judgment,²² stating:

"WHEREAS, on May 21, 2011, the Demurrers by Real Parties in Interest [including Teichert and CEMEX], to the Second Cause of Action were sustained without leave to amend. . . .

"WHEREAS, on June 28, 2011, the Demurrer by [the County], to the Third Cause of Action . . . was sustained without leave to amend. . . .

"WHEREAS, on May 18, 2012, a trial was held on the First and Fourth Causes of Action and the Court ordered the Towers' petition for writ of mandate challenging the First Cause of Action be denied. Further, the Court ordered the Towers' petition for writ of mandate challenging [*40] the Fourth Cause of Action be denied. . . .

"WHEREAS, on December 20, 2012, the Court granted summary adjudication on the procedural due process

²² The judgment expressly states it attaches all orders, but the Towerses did not include the attachments in their appellants' appendix, which has the interim orders spread out. The County filled the breach by submitting a respondents' appendix.

and substantive due process causes of action contained in the Fifth Cause of Action. Further, the Court held that Defendant Kerry Sullivan was not liable in the Fifth Cause of Action and dismissed her as a party to this litigation. As of December 20, 2012, the equal protection cause of action was the only remaining portion of the Fifth Cause of Action. . . .

"WHEREAS, on December 31, 2012, the Towers dismissed the Second Cause of Action and the equal protection portion of the Fifth Cause of Action. . . .

"NOW THEREFORE, the Court finds and concludes all other issues pending having been determined by prior order and/or dismissal, judgment is hereby entered as follows:

"1. Judgment is entered in favor of the County on the First, Third, Fourth, and the substantive and due process claims of the Fifth Causes of Action.

"2. Judgment is entered in favor of Defendant Sullivan on the entire Fifth Cause of Action.

"3. The Towers voluntarily dismissed the remaining portions of the Second Cause of Action, and the equal protection portion of the Fifth Cause [*41] of Action, leaving no further issue or claim to be tried.

"IT IS SO ORDERED."

DISCUSSION

I. Timeliness of Appeal as to Teichert and CEMEX

CEMEX and Teichert argue the appeal is untimely as to them, because the trial court disposed of all claims involving them (the first, second, and fourth counts) in orders sustaining their demurrers and in the June 29, 2012, order on the bench trial, yet plaintiffs did not file their notice of appeal until April 10, 2013 (a month after the trial court entered its final judgment incorporating all the earlier rulings and orders).

If the June 29, 2012, order triggered the time to appeal as to CEMEX and Teichert, then the appeal would be untimely as to them. (*Cal. Rules of Court, rule 8.104* [notice of appeal must be filed within 60 days of notice of entry of appealable order].)

However, we are not persuaded by CEMEX's and Teichert's arguments that they were out of the case as

of the time of the June 29, 2012, order on the bench trial. The bench trial was on the first and fourth counts only, the writ petitions seeking to invalidate ordinance No. 4381 and the one-year extensions. However, CEMEX and Teichert both acknowledge on appeal that they were also named in the second count, which sought [*42] declaratory and injunctive relief to declare the mining permits and extensions void. Although CEMEX and Teichert had earlier prevailed on demurrers to the second count, the second count remained in place against the County until plaintiffs dismissed it on December 31, 2012. A ruling against the County on the second count might have affected CEMEX and Teichert despite their earlier demurrers because, until the trial court entered a final judgment, it could have reconsidered its earlier rulings and orders. (*Fischer v. First Internat. Bank* (2003) 109 Cal.App.4th 1433, 1451, 1 Cal. Rptr. 3d 162 [before issuing judgment, a trial court has inherent authority to reconsider interim orders].)

We recognize that, after the order on the bench trial, the trial court on September 5, 2012, granted CEMEX's motion for judgment on the pleadings in favor of CEMEX as to the second cause of action for declaratory or injunctive relief. The court noted the motion was just a "formality," given the court's ruling on CEMEX's demurrer. However, CEMEX does not argue that this order triggered the time to appeal, nor could CEMEX so argue, because an order granting a motion for judgment on the pleadings that does not terminate the proceedings is interlocutory and therefore is not an appealable order. [*43] (*Singhanian v. Uttarwar* (2006) 136 Cal.App.4th 416, 425, 38 Cal. Rptr. 3d 861.)

Accordingly, we reject CEMEX's and Teichert's arguments that plaintiffs' notice of appeal was untimely as to them and address plaintiffs' contentions on appeal.

II. Challenge to OS/RC Designation and Maps

We first conclude that plaintiffs have no basis to challenge the OS/RC designation of their land or the allegedly "phony maps," because plaintiffs have forfeited those matters by failing to provide any legal authority or analysis on appeal to challenge the trial court's conclusion that those claims are barred by the statute of limitations (*Code Civ. Proc.*, § 338, subd. (d)).

Plaintiffs' pleading raised these claims in the third count seeking administrative mandamus to undo the County's denial of plaintiffs' application to redesignate their

property from OS/RC to agricultural zoning. In the fifth cause of action, the pleading repeated the designation and map matters among the alleged civil rights violations (*42 U.S.C. § 1983*).

The trial court eliminated the third count on demurrer because the claim was barred by the three-year statute of limitations, in that the 2009 lawsuit was not filed within three years of the County's 2004 refusal to redesignate plaintiffs' parcels.

Our review of the trial court's ruling on demurrer is de novo. [*44] (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318, 216 Cal. Rptr. 718, 703 P.2d 58 (*Blank*); *Steam*, *supra*, 170 Cal.App.4th at pp. 439-440.)

On appeal, plaintiffs present no discrete argument challenging the dismissal of the third count on demurrer, on statute of limitations grounds. Instead, plaintiffs' appellate brief mentions their redesignation request and the "phony maps" only in their statement of facts and in their argument about their fifth cause of action for federal civil rights violations. Plaintiffs argue the trial court erred in rejecting the due process claims based on lack of property interest.

However, plaintiffs present no argument, analysis, or authority that the trial court erred in ruling the statute of limitations barred the state law claims, and plaintiffs present no argument, analysis, or authority, that they can revive these barred claims by alleging they violate federal civil rights.

Plaintiffs claim the County should be estopped from asserting the statute of limitations because the County concealed its own fraudulent conduct by withholding documents. Plaintiffs assert that they bear no fault in failing to discover the alleged fraud in a timely manner. However, as we have indicated, the trial court in ruling on the demurrer explained the complaint failed to allege facts sufficient for [*45] fraud or intentional misconduct, and plaintiffs on appeal have failed to challenge this determination or show reversible error in the trial court's rejection of plaintiffs' argument that they could not have discovered the facts earlier.

We may disregard points not supported by appropriate analysis and authority. (*Kim v. Sumitomo Bank* (1993) 17 Cal.App.4th 974, 979, 21 Cal. Rptr. 2d 834.)

Moreover, the bar of the statute of limitations forecloses not only the third count challenging the designation, but also the fifth count alleging federal civil rights violations, because the state statute of limitations governs the

length of the limitations period for the federal civil rights action (*42 U.S.C. § 1983*). (*Wallace v. Kato* (2007) 549 U.S. 384, 387 [127 S. Ct. 1091, 166 L.Ed.2d 973, 980]; *Roman v. County of Los Angeles* (2000) 85 Cal.App.4th 316, 322-323, 102 Cal. Rptr. 2d 13.)

Accordingly, we disregard plaintiffs' complaints about the OS/RC designation and the maps.

III. Ordinance 4381

We conclude that plaintiffs' challenges to ordinance No. 4381 are barred by their failure to exhaust administrative remedies.

Plaintiffs argue the trial court erred in rejecting their challenge to ordinance No. 4381 in the bench trial. They argue ordinance No. 4381 is invalid because (1) the County failed to codify it; (2) the planning commission did not review it before the Board of Supervisors adopted it; and (3) the County failed to conduct necessary CEQA review. [*46] Plaintiffs also argue the trial court incorrectly ruled that plaintiffs lacked standing due to failure to exhaust administrative remedies.²³

On appeal of the trial court's order on the bench trial, we review any issues of statutory construction de novo. (*Schaefer's Ambulance Service v. County of San Bernardino* (1998) 68 Cal.App.4th 581, 586, 80 Cal. Rptr. 2d 385.) The substantial evidence rule applies to factual issues, with any conflicts resolved in favor of the respondent and all reasonable inferences indulged to uphold the judgment. (*Ibid.*) We defer to the trial court's factual findings if the evidence is in conflict, even where the evidence is documentary rather than live testimony. (*Shamblin v. Brattain* (1988) 44 Cal.3d 474, 479, 243 Cal. Rptr. 902, 749 P.2d 339.)

A. Exhaustion

The trial court concluded plaintiffs were barred from challenging ordinance No. 4381, pursuant to

Government Code section 65009, subdivision (b)(1),²⁴ which precludes a judicial challenge on issues that were not raised at the administrative level. The court found that no one raised the claimed defects (failure to codify, failure to submit to planning commission review, failure to conduct CEQA review) at the board of supervisors hearing in which ordinance No. 4381 was adopted.

Judicial enforcement of the exhaustion requirement of *Government Code section 65009* is not discretionary. Instead, exhaustion of administrative remedies is said to be "a jurisdictional prerequisite to [*47] judicial action challenging a planning decision." (*Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 831, 65 Cal. Rptr. 3d 251.) The purpose of *Government Code section 65009* "is to provide certainty for property owners and local governments regarding decisions made pursuant to this division." (*Gov. Code, § 65009, subd. (a)(3)*.) The exhaustion requirement also lightens the burden on the courts by encouraging the development of a complete record before the administrative agency and allowing the agency to exercise its expertise on the issues raised. (*Evans v. City of San Jose* (2005) 128 Cal.App.4th 1123, 1137, 27 Cal. Rptr. 3d 675.) The petitioner has the burden of proving an issue was exhausted. (*North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 624, 157 Cal. Rptr. 3d 240.) Whether a petitioner has exhausted administrative remedies is a question of law and our review of the matter is de novo. (*Ibid.*)

On appeal, plaintiffs do not claim or demonstrate that they exhausted the administrative remedies. They instead argue the trial court erred because *Government Code section 65009* by its own terms applies only when there is a "properly noticed public hearing." Plaintiffs argue, "Not only was there no Planning Commission hearing, the only notice of the Board [of Supervisors] meeting was a micro-print ad Planning Commission action would have required personal notice to Towers pursuant to *Government Code section 65091, subd. (1)* [sic] because it affects the uses of real

²³ We note standing and exhaustion of administrative remedies are not the same thing. A person may have "standing," i.e., an actual, substantial interest in the subject matter and outcome of the court action, yet a challenge may still be barred due to failure to exhaust administrative remedies. (See *City of Industry v. City of Fillmore* (2011) 198 Cal.App.4th 191, 208-210, 129 Cal. Rptr. 3d 433.)

²⁴ *Government Code section 65009, subdivision (b)(1)*, provides in pertinent part: "In an action or proceeding to attack, review, set aside, void, or annul a finding, determination, or decision of a public agency made pursuant to this title [Title 7, Planning and Land Use, § 65007 et seq.] at a properly noticed public hearing, the issues raised shall be limited to those raised in the public hearing or in written correspondence delivered to the public agency prior to, or at, the public hearing"

property (Gov[.] Code [§ 65854](#))."

However, plaintiffs fail to show that notice [*48] of the hearing was legally inadequate or that personal notice to them was required. The statutes they cite do not help them. [Government Code section 65854](#) provides that notice of hearing shall be given pursuant to [Government Code section 65090](#) (which requires notice be published in at least one newspaper of general circulation) and, if the ordinance affects permitted uses of property, notice shall also be given under [Government Code section 65091](#). [Government Code section 65091, subdivision \(a\)\(1\)](#), requires that notice be mailed or delivered "to the owner of the *subject* real property as shown on the latest equalized assessment roll. . . ." (Italics added.) Plaintiffs did not have a mining permit; thus their property was not the "subject" property of ordinance No. 4381, which did nothing more than extend mining permits.

Notice was published in the newspaper. On September 18, 2009, the County published "Notice of Public Hearing Before the San Joaquin County Board of Supervisors," to be held September 29, 2009, regarding "Adoption of Ordinance Extending By Twenty-Four Months the Expiration Date of Certain Use Permits, Site Approvals, and Quarry Excavation Permits." The notice also contained all language required by [Government Code section 65009, subdivision \(b\)\(2\)](#), which provides, "If a public agency desires the provisions of this subdivision to apply to a matter, it [*49] shall include in any public notice issued pursuant to this title a notice substantially stating all of the following: 'If you challenge the (nature of proposed action) in court, 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 (public entity conducting the hearing) at, or prior to, the public hearing.'"

Thus, plaintiffs fail to show any excuse for their failure to exhaust administrative remedies.

B. Claim that Ordinance 4381 is Void *Ab Initio*

Under the same subheading about exhaustion of administrative remedies, plaintiffs add, "Moreover, Ordinance 4381 was *void ab initio*. A void ordinance can be given no effect." (Citing [Leshar Communications, Inc. v. City of Walnut Creek \(1990\) 52 Cal.3d 531, 544, 277 Cal. Rptr. 1, 802 P.2d 317](#).) The court in *Leshar* reasoned, "A zoning ordinance that conflicts with a

general plan is invalid at the time it is passed. [Citations.] The court does not invalidate the ordinance. It does no more than determine the existence of the conflict. It is the preemptive effect of the controlling state statute, the Planning and Zoning Law, which invalidates the ordinance." (*Ibid.*) However, a challenger cannot come before a court without first exhausting administrative [*50] remedies. A claim that an action is void *ab initio* does not excuse the exhaustion requirement. ([McAllister v. County of Monterey \(2007\) 147 Cal.App.4th 253, 284, 54 Cal. Rptr. 3d 116](#).)

We conclude plaintiffs' claims regarding ordinance No. 4381 are barred by their failure to exhaust administrative remedies. Although the trial court went on to address the merits of plaintiffs' claims despite finding failure to exhaust administrative remedies, we need not review the other claims (lack of codification of ordinance No. 4381, lack of planning commission review, and lack of CEQA review) because the failure to exhaust administrative remedies is jurisdictional and dispositive.

IV. Standing - Allegations of Misfeasance and Dereliction of Duty Regarding General Plan Implementation

Before proceeding to the merits of plaintiffs' other contentions (the one-year extensions and the federal civil rights claim), we first explain that plaintiffs lack standing to litigate their multiple allegations of County misfeasance and subversion in violating statutory requirements for implementation of the general plan. These claims are intertwined throughout plaintiffs' pleading and briefing.

A. Plaintiffs' Contentions

Plaintiffs contend that the County violated its statutory duties regarding implementation [*51] of its general plan under land use planning laws and CEQA. In each of their "causes of action," plaintiffs included accusations of County dereliction of duty in failing to: (1) make annual reports on the status of implementation of the general plan ([Gov. Code, § 65402, subd. \(a\)](#)); (2) prepare mitigation monitoring plans (MMPs) for the general plan, as required by CEQA (§ 21081.6) and Development Title, chapter 9-1055; and (3) implement mitigation of known significant impacts (particularly air quality) from the build-out of the general plan. Plaintiffs asked the trial court to issue a writ of traditional mandamus, not only ordering the County to comply with

the general plan duties, but also forbidding the County from making any land use decisions whatsoever until it shows full compliance with the general plan duties. On appeal, plaintiffs ask us to order the County to "cease and desist" making any land use decisions until it fully complies with all land use planning laws on general plan implementation. In addition, plaintiffs ask us to appoint a special master to monitor compliance and submit bi-monthly reports to us and plaintiffs' counsel.

Plaintiffs' contentions fail because plaintiffs lack standing.²⁵

B. The Trial Court's [*52] Ruling

Plaintiffs claim the trial court never ruled on their allegations about the County's defects in implementing the general plan, and therefore we should make findings and order relief. However, the record shows the trial court did rule; it ruled plaintiffs failed to show they had the beneficial interest required for traditional mandamus relief (*Code Civ. Proc.*, § 1086 [writ of traditional mandate must be issued upon the verified petition of a "party beneficially interested"]), because there was no connection between the General Plan implementation issues and plaintiffs' interests.

In sustaining Teichert's demurrer to the declaratory relief claim (the second count), the court observed that the mining permits, "according to [plaintiffs], are the sum result of the errors of the County in interpreting the General Plan, implementing its policies, etc. In other words, according to [plaintiffs], the validity of the quarry permits depends upon the propriety of the County's actions. The problem- [plaintiffs] argue- is that the RPIs' demurrers presume the propriety of the County's actions. The Second Amended Petition, however, challenges the County's action which, in turn, affects the RPIs' permits. [¶] In previously [*53] addressing the RPIs' demurrer[] to the Second Cause of Action [in the first amended petition], the Court sustained the demurrer, with leave to amend, on grounds of uncertainty explaining that 'it is unclear from the allegations of the Second Cause of Action whether the individual permits are being challenged and/or are the focus of the requested declaratory/injunctive relief or whether the permitting process was the focus of the

cause of action. Leave to amend was granted in order to allow [plaintiffs] to clarify that point."

Then, in its order following the bench trial, the trial court spoke of plaintiffs' argument that the County had failed to follow through with reporting procedures, development, monitoring, or amendments relative to the general plan. The trial court noted that the claimed planning and zoning law violations were not specific to ordinance No. 4381. They fell into two categories. The first category was general plan deficiencies, e.g., failure to submit annual status reports, implement the general plan's call for objective development standards, amend the general plan elements to incorporate air quality strategies, and to report on and implement general plan mitigation [*54] measures. The second category was an ordinance violation in that the County failed to map ARM zones.

As to the first category, the trial court determined the alleged deficiencies did not render ordinance No. 4381 void, because plaintiffs failed to show that those defects were relevant to the ordinance. The only concern that could arguably be characterized as a criteria violation was the alleged failure to amend the general plan elements to include strategies to improve air quality. (*Gov. Code*, § 65302.1, *subd. (b)*.) However, plaintiffs must also show relevancy of that alleged failure to ordinance No. 4381, which plaintiffs failed to do. The trial court said, "Petitioners proceed on the logic that the existence of a deficiency alone nullifies the ordinance. Such a showing is insufficient to nullify Ordinance 4381."

As to the second category, the court noted that Development Title, chapter 9-105, section 9-105.6, imposed on the County the duty to map the ARM zones it adopted, and the County admitted it had not done so. The court stated, "The pertinent question is, 'What is the relevancy of the County's failure to map ARM zones to Ordinance 4381?' Again, no connection is made or argued by [plaintiff]s. Without a showing of relevancy, the mere [*55] fact that County failed to map the ARM zones is insufficient to nullify Ordinance 4381."

Thus, the trial court in essence ruled that plaintiffs lacked standing to complain about the implementation problems, because they failed to show any nexus between those problems and plaintiffs' interests, and accordingly plaintiffs lacked the beneficial interest required for mandamus relief. We next explain the trial court was correct.

²⁵ For purposes of this appeal, we will assume *arguendo* that plaintiffs' complaints about defects in implementation of the general plan are timely, despite the County's argument to the contrary.

C. Analysis

1. Principles of Standing

Plaintiffs lack standing to assert the alleged defects in the County's implementation of the general plan. Lack of standing is a jurisdictional defect that can be raised at any time. (*Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 912, 146 Cal. Rptr. 3d 12 (*Rialto Citizens*).)

"As a general rule, a party must be 'beneficially interested' to seek a writ of mandate. [Citation.] 'The requirement that a petitioner be "beneficially interested" has been generally interpreted to mean that one may obtain the writ only if the person has some special interest to be served or some particular right to be preserved or protected over and above the interest held in common with the public at large. [Citations.] . . . "One who is in fact adversely affected by governmental action should have standing to challenge that [*56] action if it is judicially reviewable." [Citation.] [Citation.] The beneficial interest must be direct and substantial." (*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 165, 127 Cal. Rptr. 3d 710, 254 P.3d 1005 (*Save the Plastic Bag*).)

"Nevertheless, "where the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty, the [petitioner] need not show that he has any legal or special interest in the result, since it is sufficient that he is interested as a citizen in having the laws executed and the duty in question enforced." [Citation.] This "public right/public duty" exception to the requirement of beneficial interest for a writ of mandate 'promotes the policy of guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a public right.' [Citations.] [The California Supreme Court] refer[s] to this variety of standing as 'public interest standing.'" (*Save the Plastic Bag, supra*, 52 Cal.4th at p. 166.) Strict rules of standing have no application where broad and long-term environmental effects are involved. (*Id.* at p. 170.)

However, no party may proceed with a mandamus petition as a matter of right under the public interest exception. (*Save the Plastic Bag, supra*, 52 Cal.4th at p. 170, fn. 5.) "Judicial recognition of citizen standing is an exception to, rather than [*57] repudiation of, the usual requirement of a beneficial interest." (*Ibid.*) It would be inappropriate for a party to attempt to use CEQA to

impose regulatory burdens on a business competitor, "with no demonstrable concern for protecting the environment." (*Id.* at p. 170.) Similarly "where the claim of 'citizen' or 'public interest' standing is driven by personal objectives rather than 'broader public concerns,' a court may find the litigant to lack such standing." (*SJJC Aviation Services, LLC v. City of San Jose* (2017) 12 Cal. App. 5th 1043, 1057, 219 Cal. Rptr. 3d 637 (*SJJC Aviation Services*), citing *Save the Plastic Bag*, 52 Cal.4th at p. 169.)

Plaintiffs' pleading alleged they live in Stanislaus County but are "beneficially interested in the enforcement of the Planning and Zoning Law and CEQA as citizens of the State of California and as property owners and taxpayers in the County of San Joaquin, and are directly affected by the extension of permits that would otherwise expire for uses on properties located in close proximity to their property that have adverse effects on conversion of prime agricultural land to land of marginal agricultural use, noise, air quality, wildlife habitat for threatened or endangered species, traffic and visual and aesthetic values."

As we shall explain, plaintiffs have neither "special interest" nor "public interest" [*58] standing.

2. Special Interest Standing

In their opening brief on appeal, plaintiffs argue they have "special interest" standing because they own three parcels of land "in the immediate vicinity of several gravel quarry operations."

The County's brief responds that the proximity of plaintiffs' vacant land to the mining operations may give plaintiffs standing to challenge ordinance No. 4381 and the one-year extensions, but plaintiffs show no distinct injury to confer special interest standing to challenge countywide general plan implementation, mitigation, and reporting requirements. The County adds that, although plaintiffs have an economic interest in their vacant land, they offer no explanation as to how the alleged general plan violations (as opposed to the OS/RC designation) inhibit their ability to develop their property.

Plaintiffs argue in their reply brief that they have a beneficial interest because "San Joaquin County has failed to complete the predicate requirements which enable it to make land use decisions. [Citation to opening brief.] Until such time as San Joaquin County completes these predicate decision making requirements, Towers' vacant 19 acres is in no better

position [*59] for development than TEICHERT or CEMEX - no land use projects can be legitimately approved in San Joaquin County."

Beneficially interested parties are those that are "'in fact adversely affected by governmental action'" (*Save the Plastic Bag, supra*, 52 Cal.4th at p. 165, italics added), and as we have noted, our high court has held that the beneficial interest must be "direct and substantial." (*Ibid.*; see also *Cuenca v. Cohen* (2017) 8 Cal.App.5th 200, 219, 213 Cal. Rptr. 3d 689; *Rialto Citizens, supra*, 208 Cal.App.4th at p. 913.) An alleged right that is abstract, inchoate, or lacking in substantiality does not warrant mandamus. (8 Witkin, Cal. Procedure (5th ed. 2008) Extraordinary Writs, § 75, p. 956.) Here, the asserted beneficial interest plaintiffs identify is neither direct nor substantial; rather the asserted interest is at best indirect and insubstantial.

Moreover, plaintiffs cite no supporting authority that the general plan violations preclude the County from making any land use decisions as plaintiffs assert. Generally, defects regarding a general plan do not invalidate all county land use decisions. Such defects may render a specific project approval invalid, due to "the hierarchical relationship of the land use laws," because local approval of a specific land use is "struck from the mold" of the planning and zoning laws, which must comply [*60] with general plans, which must conform to state law requirements. (See *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184, 203 Cal. Rptr. 401 (*Neighborhood Action*); *Guardians of Turlock's Integrity v. Turlock City Council* (1983) 149 Cal.App.3d 584, 598, 197 Cal. Rptr. 303 [project approval was not consistent with general plan because general plan was invalid for lack of a noise element].)

But to prevail in such cases, the plaintiff must show a nexus between the project approval and the general plan defect. (*Avenida San Juan Partnership v. City of San Clemente* (2011) 201 Cal.App.4th 1256, 1274-1278, 135 Cal. Rptr. 3d 570; *Neighborhood Action, supra*, 156 Cal.App.3d at pp. 1184-1188 [issuance of a use permit is beyond the authority of the issuing agency if the general plan is deficient in its treatment of mandatory elements which are involved in the uses sought by the permit].)

Here, plaintiffs fail to show any nexus. What arguably affects plaintiffs are the mining permit extensions. But the extensions did nothing more than extend the expiration date of the permits that were previously

approved. And those initial approvals are outside the scope of this lawsuit due to the statute of limitations.

The only possible nexus concerns air quality. The trial court stated in its order on the bench trial, that the only potentially viable concern of plaintiffs was the County's alleged failure to amend the general plan elements to include strategies to improve air quality. (*Gov. Code*, § 65302.1.²⁶ However, said the court, plaintiffs must show relevancy of that alleged [*61] failure to ordinance No. 4381, which plaintiffs failed to do. The trial court said, "Petitioners proceed on the logic that the existence of a deficiency alone nullifies the ordinance. Such a showing is insufficient to nullify Ordinance 4381."

We agree with the trial court. Plaintiffs fail to show any relevant nexus between the alleged general plan violations to the one-year or two-year extensions of mining permits. Indeed, plaintiffs' reply brief concedes their air quality claims relate to the "approval of the CEMEX and Teichert quarries."²⁷ As we have indicated, this lawsuit does not involve approval of the quarries, which occurred years earlier, but only the extensions of

²⁶ **Government Code section 65302.1**, as enacted in 2003 (Stats. 2003, ch. 472, § 1), provides in part: "(a) The Legislature finds and declares all of the following: [¶] (1) The San Joaquin Valley has a serious air pollution problem that will take the cooperation of land use and transportation planning agencies, transit operators, the development community, the San Joaquin Valley Air Pollution District [APD or the District] and the public to solve. The solution to the problem requires changes in the way we have traditionally built our communities and constructed the transportation systems. It involves a fundamental shift in priorities from emphasis on mobility for the occupants of private automobiles to a multimodal system that more efficiently uses scarce resources. It requires a change in attitude from the public to support development patterns and transportation systems different from the status quo. [¶] . . . [¶] (b) The legislative body of each city and county within the jurisdictional boundaries of the district shall amend the appropriate elements of its general plan, which may include, but are not limited to, the required elements dealing with land use, circulation, housing, conservation, and open space, to include data and analysis, goals, policies, and objectives, and feasible implementation strategies to improve air quality. . . ."

²⁷ Plaintiffs' reply brief states they "identified some of the failed general plan mitigation as failed general plan implementation. These overlapping failures include implementation of air quality guidelines and development of (scenic corridor) design review guidelines in context of administrative writs in the Fourth Cause of Action. This was done to show prejudicial implications associated with the approval of the CEMEX and TEICHERT quarries." (Italics added.)

the permits.

Plaintiffs cite *Government Code section 65302.1* (see fn. 26, *ante*), in which the Legislature found and declared that "[t]he San Joaquin Valley has a serious air pollution problem that will take the cooperation of land use and transportation planning agencies" However, even assuming this statute was adequately pleaded (a point disputed by the parties), plaintiffs fail to show it affords any basis for reversal. As plaintiffs acknowledge in their reply brief, they pleaded air quality in order [*62] to obtain a court order that the County desist from issuing any building permits until it amends the general plan to reflect air quality policies. Thus, their complaint is about a technical defect, not any adverse impact to the air which arguably might affect them.

Plaintiffs argue that property owners in the vicinity of mining operations have an interest in the enforcement of MMPs, and this is "not a matter of mere technical compliance," because the purpose of MMPs is to mitigate the significant impacts on the environment that have already been identified. However, plaintiffs' pleading and briefs disclose no indication of substantive impacts of these general plan defects on plaintiffs' property. The impact asserted by plaintiffs is that no land use projects can be legitimately approved by the County for any property, including plaintiffs' parcels, until the County addresses the defects in implementing the general plan. However, the County rejected plaintiffs' application to build houses due to incompatibility with the mining resource conservation under SMARA, and plaintiffs fail to show how correction of defects in implementing the general plan would alter that result. "Writ relief [*63] is not available if the petitioner gains no direct benefit from the writ's issuance, or suffers no direct detriment from its denial." (*Chorn v. Workers' Comp. Appeals Bd.* (2016) 245 Cal.App.4th 1370, 1382, 200 Cal. Rptr. 3d 74; accord, *Rialto Citizens*, *supra*, 208 Cal.App.4th at p. 913.)

We conclude plaintiffs lack "special interest" standing to litigate the alleged defects in the County's implementation of its general plan.

3. Public Interest Standing

Plaintiffs argue they have "public interest" standing because they are California residents and this case concerns "environmental quality including traffic, scenic highways, air quality, and preservation of prime farmland. These are matters of regional, statewide, and

national concern." The County argues that a mere allegation of environmental concern is insufficient to show a demonstrable concern for protecting the environment sufficient to confer standing on these plaintiffs, who do not even live in San Joaquin County, and it is apparent the purpose of their lawsuit is to benefit themselves. Plaintiffs assert in their reply brief that the environmental issues are of "regional, statewide, and national concern[.]" but that they do not need to rely on public interest standing because they believe they have special interest standing.

Public interest standing may be available " [*64] [w]here the question is one of public right and *the object of the litigation is to procure the enforcement of a public duty.*" (*California Department of Consumer Affairs v. Superior Court* (2016) 245 Cal.App.4th 256, 262, 199 Cal. Rptr. 3d 354, citing *Save the Plastic Bag*, *supra*, 52 Cal.4th at p. 166, *italics added*.) "[P]ublic interest standing is not freely available to any party." (*Department of Consumer Affairs*, at p. 262.) No party may proceed with a mandamus petition as a matter of right under the public interest exception. (*Save the Plastic Bag*, at p. 170.) Judicial recognition of citizen standing is an exception to, rather than repudiation of, the usual requirement of a beneficial interest. (*Ibid.*)

Here, plaintiffs fail to show public interest standing and impliedly concede lack of such standing when they say in their reply brief that they do not need to rely on public interest standing. Moreover, it is clear that plaintiffs commenced this litigation to vindicate their interests related to their land, not the public interest. Indeed, the record demonstrates that in the attempts to settle the earlier litigation and the other alternatives plaintiffs attempted to advance (e.g., rezoning their property), the entire focus related to their land. And as we have noted, a court may find a litigant lacks public interest standing where the claim of such standing is "driven by personal objectives rather than 'broader public concerns.'" [*65] (*SJJCA Aviation Services*, *supra*, 12 Cal. App. 5th at p. 1057.) Plaintiffs have not established public interest standing, despite their description of the purposes of this litigation in the pleading.

V. One-Year Extensions

Plaintiffs argue the trial court erred in denying their petition for a writ of administrative mandamus (fourth "cause of action") to vacate the County's grant of one-year extensions of the mining permits of Teichert and CEMEX. We conclude plaintiffs fail to show grounds for

reversal.²⁸

The inquiry in administrative mandamus is "whether the respondent has proceeded without, or in excess of, jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence." (*Code Civ. Proc.*, § 1094.5, subd. (b).) "Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence. In all other cases, abuse of [*66] discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record." (*Code Civ. Proc.*, § 1094.5, subd. (c); *Bixby v. Pierno* (1971) 4 Cal.3d 130, 143-144, 93 Cal. Rptr. 234, 481 P.2d 242.)

On appeal, our task is the same as that of the trial court. (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946-947, 91 Cal. Rptr. 2d 66.) We review the agency's actions to determine whether the agency complied with procedures required by law. (*Id.* at p. 946.) We generally do not substitute our judgment for that of the people and their local representatives, but we must scrupulously enforce all legislatively mandated CEQA requirements. (*Id.* at pp. 946-947.)

A. CEQA

Plaintiffs argue the one-year extensions were "projects" under CEQA, and the County failed to comply with CEQA requirements. We disagree, because the one-year extensions were not subject to CEQA.

The trial court decided the CEQA matter in the course of ruling on the demurrers of Teichert and CEMEX. This ruling ultimately inured to the benefit of the County as well. Our standard of review on this legal question is de novo. (*Blank, supra*, 39 Cal.3d at p. 318; *Stearn, supra*,

[170 Cal.App.4th at pp. 439-440.](#))

Whether a particular activity constitutes a "project" within the meaning of CEQA is a question of law for determination by the court. (*Fullerton Jt. Union H.S. Dist. v. State Board of Education* (1982) 32 Cal.3d 779, 795, 187 Cal. Rptr. 398, 654 P.2d 168.) "Generally speaking the question on judicial review of an agency's decision under CEQA is whether the agency abused [*67] its discretion. Abuse of discretion in this context means the agency failed to proceed as required by law or there was no substantial evidence to support its decision. Thus in reviewing the adequacy of an EIR the trial court does not determine whether the agency's final determinations were correct but only whether the agency arrived at them in accordance with the law and on the basis of substantial evidence. On appeal we independently review the administrative record under the same standard of review which governs the trial court." (*Moss v. County of Humboldt* (2008) 162 Cal.App.4th 1041, 1050, 76 Cal. Rptr. 3d 428 (Moss).) The threshold question of whether something is a new project is a question of law for the court (unless the answer turns on a factual dispute). (*Id.* at p. 1051.)

Here, it is undisputed that the one-year extensions did nothing more than extend the expiration date of the mining permits. The extensions did not expand the scope of allowable activity. The permits were subject to CEQA consideration when they were first approved. The extensions changed nothing except the expiration date.

"All local agencies shall prepare, or cause to be prepared . . . and certify the completion of, an environmental impact report on any project that they intend to carry out or approve [*68] which may have a significant effect on the environment. . . ." (§ 21151, subd. (a).)

"Project" is defined in [section 21065](#) to include "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following: [¶] (a) An activity directly undertaken by any public agency. [¶] (b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies. [¶] (c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies."

"Project means the whole of an action, which has a

²⁸ Under this heading, plaintiffs also claim the one-year extensions are invalidated by the County's dereliction of statutory duties for implementing the general plan. As we have explained, plaintiffs failed to establish standing as to such claims.

potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following: [¶] (1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, [*69] and the adoption and amendment of local General Plan or elements thereof pursuant to [Government Code Sections 65100-65700](#). [¶] (2) An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies. [¶] (3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies. [¶] . . . [¶] (c) The term 'project' refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term 'project' does not mean each separate governmental approval. . . ." (*Cal. Code Regs., tit. 14, § 15378*.)

"Under CEQA, "'Project' is given a broad interpretation . . . to maximize protection of the environment.'" (*Center for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal.App.4th 1156, 1170, 136 Cal. Rptr. 3d 351 (*Center for Sierra Nevada Conservation*).)

On the question of whether the permit extensions are projects, we find guidance in *Moss, supra*, 162 Cal.App.4th 1041. There, a subdivision project that was initially approved with a mitigated negative declaration, but because of protracted litigation, its tentative map expired. (*Id. at p. 1045*.) When Moss filed a new application, the county determined that an EIR was required even though it was [*70] undisputed that the proposed subdivision project did not change in any substantial way. (*Id. at pp. 1047, 1052*.) On appeal, the court held that a resubmitted application for a subdivision, after expiration of the approved tentative map, did not constitute a new project for CEQA purposes (though substantial evidence of significant environmental effects not previously considered supported the need for supplemental EIR). (*Id. at pp. 1049, 1054*.) The court reasoned that, "[n]othing significant about the *activity* to be undertaken on the land has changed in any way; all that has changed is that the County's previous approval of a map expired." (*Id. at p. 1056*.) The court further observed that "[e]xpiration of the tentative map was an abstract occurrence that had no effect on the project's

environmental impacts. Rather, it was the expiration of a discretionary approval by a governmental agency, and the Guidelines make it clear that a CEQA project is not to be defined by each of the discretionary approvals that may be required from government agencies." (*Ibid.*)

The *Moss* court reviewed several decisions, including *Fund for Environmental Defense v. County of Orange* (1988) 204 Cal.App.3d 1538, 252 Cal. Rptr. 79, where the county approved a use permit for a project with a certified EIR. The use permit expired five years later. The developer then applied for a new [*71] use permit. The county approved it without requiring a new EIR, instead relying on the previous EIR and an addendum. (*Id. at p. 1543*.) No one suggested the expiration of the use permit transformed the proposed development into a new project for CEQA purposes. Rather, the issue on appeal was whether changes in the project were so substantial as to require a supplemental EIR. As the *Fund* court observed, "To require preparation of a subsequent or supplemental EIR, the change in the project or the circumstances surrounding it must not only be substantial, it must require major revisions of the EIR." (*Id. at p. 1552*.) Based on this test, the *Fund* court held substantial evidence supported the trial court's determination that the EIR for the expired permit could be used as basis to issue the permit five years later. (*Id. at p. 1543, 1552*.)

Similarly, in *Security Environmental Systems, Inc. v. South Coast Air Quality Management Dist.* (1991) 229 Cal.App.3d 110, 280 Cal. Rptr. 108, an air quality management agency approved a negative declaration and issued several conditional permits for construction of a hazardous waste incinerator. When the project's proponent requested an extension of the permits, which were set to expire, the agency demanded preparation of an EIR. (*Id. at pp. 117-119*.) The Court of Appeal held the agency could not now require an EIR, having previously approved [*72] a negative declaration for the project, unless significant new information justified further CEQA review. (*Id. at pp. 121-124*.)

Here, as in *Moss*, nothing significant about the *activity* to be undertaken on the land has changed in any way; all that has changed was the expiration date for the permits, an abstract occurrence that had no effect on the project's environmental impacts previously considered. Accordingly, the *Moss* reasoning applies here.

Plaintiffs cite *Center for Sierra Nevada Conservation, supra*, 202 Cal.App.4th at pages 1169-1170, for the

proposition that time extensions are "projects" under CEQA. However, plaintiffs offer no analysis to show how that case supports their position in this case. In our view, that case is inapposite. In *Center for Sierra Nevada Conservation*, this court held the county had to prepare a tiered EIR for a woodland management plan because, although an earlier program EIR anticipated development of the woodland management plan, the EIR did not provide the county with any guidance in making the discretionary choices that served as the basis for the plan, e.g., setting the fee rate, how the acreage should be measured, and how off-site woodland losses would be mitigated by fees. (*Id. at pp. 1175-1181.*)

Here, the mining permits were CEQA projects and were subjected to [*73] previous CEQA review, and this lawsuit does not involve any timely challenge to the original issuance of those permits. This case involves only the extensions, which did not expand the scope of activity but merely extended the expiration date of the permits by a year.

CEQA does not apply to the extensions, and we therefore need not address plaintiff's other CEQA arguments.

B. Claims that Extensions Violated Development Title

Plaintiffs argue the one-year extensions violated provisions of the County's zoning code (Development Title). We conclude plaintiffs' arguments are unsupported by analysis or authority, and so plaintiffs fail to meet their burden to show grounds for reversal. (*Independent Roofing Contractors v. California Apprenticeship Council* (2003) 114 Cal.App.4th 1330, 1339, 9 Cal. Rptr. 3d 477; *Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785, 79 Cal. Rptr. 2d 273.)

1. Development Title, Chapter 9-854, Section 9-854.5

Plaintiffs argue that Development Title, chapter 9-854, section 9-854.5,²⁹ sets forth three mandatory findings

²⁹ Development Title, chapter 9-854, section 9-854.5, states: "Prior to approving an application for a Quarry Excavation Permit, the Review Authority shall find that all of the following are true: (¶) (a) The proposal is for the removal of regionally significant or scarce deposits of mineral resources and not for

prior to approving a quarry application. However, as we have said, this case does not involve approval of the quarry applications, but only approval of the one-year extensions. Plaintiffs cite Development Title section 9-881.3, which states in part, "Time Extension Applications shall be reviewed using the review procedure required for the original development applications [subject to exceptions]." [*74] However, the review procedures (Development Title, ch. 9-854, § 9-854.4) address the public hearing procedure, not the findings (Development Title, ch. 9-854, § 9-854.5).

Plaintiffs claim that findings made in 2007 and 2008 for the quarry applications were wrong and/or based on misrepresentations. However, the County's original decision on the quarry applications are outside the scope of this litigation. Although the administrative record for the one-year extensions sets forth the original findings from the County, plaintiffs cite no authority that this revives barred claims.

2. Development Title, Chapter 9-1525, Section 9-1525.2

Plaintiffs next contend that Development Title, chapter 9-1525, section 9-1525.2, subdivision (c),³⁰ "requires no explanation." Plaintiffs claim the findings for the 2007 Teichert approval show significant environmental impacts that cannot be mitigated. However, the 2007 approval is beyond the scope of this lawsuit, and it is plaintiffs' burden as appellants to explain their contentions.

3. Development Title, Chapter 9-854, Section 9-854.2

Plaintiffs next contend that Development Title, chapter 9-854, section 9-854.2, precludes acceptance of applications. [*75] Plaintiffs do not set forth the terms of

the removal of prime farmland; (¶) (b) The proposed reclamation of the property upon completion of the excavation will leave the property in a condition which will allow its reuse; and (¶) (c) Issuance of the permit shall not be significantly detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity." (Italics added.)

³⁰ Development Title, chapter 9-1525, section 9-1525.2, subdivision (c), states that, for extractive projects in areas of significant sand and gravel deposits, "The following projects shall not be permitted. (¶) . . . (¶) (2) Extractive projects that would have irreversible, deleterious environmental effects that cannot be mitigated."

that zoning ordinance. Instead, they simply assert that it does not allow acceptance of quarry excavation applications in areas zoned ARM, and that Teichert's and CEMEX's properties should be zoned ARM, even though it has never been mapped or implemented. Again, this case does not involve approval of the quarry permits but only approval of the extensions.

C. Fair Hearing

Plaintiffs next contend there was no fair hearing on the one-year extensions, because (1) county staff refused to provide plaintiffs with the Tracy East Area General Plan map three days before the planning commission hearing, (2) the board of supervisors denied their request for a continuance, and (3) the board did not consider plaintiffs' evidence but simply submitted it to the clerk for the record. We see no basis for reversal.

1. Provision of the Map

Government Code section 65804, subdivision (c), provides: "When a planning staff report exists, the report shall be made public *prior to or at the beginning of the hearing* and shall be a matter of public record." (Italics added.) Plaintiffs cite no authority that they were entitled to have the county staff give them the map three days before the hearing, nor do plaintiffs contend [*76] they were unable to present their case at the hearing.

2. Request for Continuance

Plaintiffs assert they did not receive copies of the board's packets (consisting of 94 pages) until December 3, 2009—several days before the December 9, 2009, hearing. On December 7th, plaintiffs requested a continuance due to the volume and complexity of the documents. Plaintiffs cite two criminal cases for the proposition that a denial of a continuance may violate due process. (*People v. Courts* (1985) 37 Cal.3d 784, 210 Cal. Rptr. 193, 693 P.2d 778 [due process violated when the trial court refused to grant a criminal defendant a continuance to permit him to be represented by an attorney he retained approximately one week before trial]; *People v. De Rosans* (1994) 27 Cal.App.4th 611, 620-622, 32 Cal. Rptr. 2d 680 [due process not violated when the trial court denied criminal defendant a continuance to allow him time to comply with the statutory procedures for making a fair cross-section challenge to the jury panel after voir dire had

begun because the case law and statute contemplate a pretrial challenge to the master list or the venire].) Plaintiffs cite no authority that these criminal cases apply in this context, nor do plaintiffs explain how denial of a continuance violated due process in this case. In the civil administrative law context, continuances [*77] must be granted sparingly and only on a prior and adequate showing of good cause. (*Arnett v. Office of Admin. Hearings* (1996) 49 Cal.App.4th 332, 342-343, 56 Cal. Rptr. 2d 774.) Here, plaintiffs did not meet this standard.

3. Purported Failure to Consider Evidence

As to plaintiffs' third argument that the Board did not consider their evidence, plaintiffs fail to show that the Board did not consider their evidence. At the hearing, plaintiffs submitted documents which they asserted were "additional background documents" supporting their oral presentation. Plaintiffs do not contend or demonstrate that they submitted any evidence on any new points beyond those which were obviously already familiar to everyone, given the protracted history behind this case.

We conclude plaintiffs fail to show reversible error with respect to the one-year extensions.

VI. Federal Civil Rights Claim

Plaintiffs contend the trial court erred in granting the County's motion for summary adjudication (*Code Civ. Proc.*, § 437c) as to plaintiffs' federal civil rights claim for due process violations (*42 U.S.C. § 1983*). We disagree.

A. Standard of Review for Summary Adjudication

"A party may move for summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, one or more claims for damages, or one or more [*78] issues of duty, if that party contends that the cause of action has no merit or that there is no affirmative defense thereto, or that there is no merit to an affirmative defense as to any cause of action, or both, or that there is no merit to a claim for damages, as specified in *Section 3294 of the Civil Code*, or that one or more defendants either owed or did not owe a duty to the plaintiff or plaintiffs. A motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative

defense, a claim for damages, or an issue of duty." (*Code Civ. Proc.*, § 437c, subd. (f)(1).)

On appeal, we review the grant of summary adjudication de novo; we must strictly construe the moving papers in the light most favorable to the opponent and liberally construe the opposing papers. (*Wilson v. 21st Century Ins. Co.* (2007) 42 Cal.4th 713, 717, 68 Cal. Rptr. 3d 746, 171 P.3d 1082.) We consider only those facts presented to the trial court. (*Havstad v. Fidelity National Title Ins. Co.* (1997) 58 Cal.App.4th 654, 661, 68 Cal. Rptr. 2d 487.)

B. Procedural Contention for Summary Adjudication

Plaintiffs argue summary adjudication can be granted only if it disposes of the entire cause of action which, in their view, did not happen in this case. "[A] cause of action for purposes of a summary adjudication motion 'means' 'a group of related paragraphs in the complaint reflecting a separate theory of liability.'" [*79] (*Silva v. See's Candy Shops, Inc.* (2016) 7 Cal.App.5th 235, 257, 212 Cal. Rptr. 3d 514; accord, *Garrett v. Howmedica Osteonics Corp.* (2013) 214 Cal. App. 4th 173, 185, fn. 7, 153 Cal. Rptr. 3d 693, citing *Lilienthal & Fowler v. Superior Court* (1993) 12 Cal.App.4th 1848, 1854-1855, 16 Cal. Rptr. 2d 458 (*Lilienthal*) ["a party may present a motion for summary adjudication challenging a separate and distinct wrongful act even though combined with other wrongful acts alleged in the same cause of action"]; *Raghavan v. Boeing Co.* (2005) 133 Cal.App.4th 1120, 1137, 35 Cal. Rptr. 3d 397 ["summary adjudication of 'a cause of action' removes from the case 'a separate theory of liability'"]; *Catalano v. Superior Court* (2000) 82 Cal.App.4th 91, 96, 97 Cal. Rptr. 2d 842; see also Weil & Brown, Cal. Practice Guide: Civ. Proc. Before Trial (The Rutter Group 2017) § 10:39.) Here, the due process claims represented a separate theory of liability and were subject to summary adjudication.

Plaintiffs cite *Bagley v. TRW, Inc.* (1999) 73 Cal.App.4th 1092, 1094, footnote 2, 86 Cal. Rptr. 2d 909, without explaining why they are citing it. In *Bagley*, the court addressed the issue of successive summary judgment/summary adjudication motions based on the same law and facts and held that the trial court erred in granting the second of two such motions because there were no newly discovered facts or circumstances or a change in the law. (*Id.* at pp. 1093, 1096.) The footnote upon which plaintiffs rely in which the *Bagley* court disagreed with *Lilienthal*, *supra*, 12 Cal.App.4th 1848, is

dicta and had nothing to do with the holding in the case. Moreover, plaintiffs fail to show any connection between the footnote in *Bagley* and this case.

There was no procedural bar to granting summary [*80] adjudication as to plaintiffs' due process claims.

C. Due Process Claims

"A plaintiff seeking recovery under *section 1983* must plead more than constitutional 'buzzwords'" and must show the defendant's acts "deprived [the plaintiff] of a right, privilege or immunity secured by the federal Constitution or federal laws." (*Golden Gate Water Ski Club v. County of Contra Costa* (2008) 165 Cal.App.4th 249, 267-268, 80 Cal. Rptr. 3d 876.) To prove a due process cause of action under *section 1983*, a party must, as a threshold matter, show "'a liberty or property interest within the protection of the *Fourteenth Amendment*.' [Citation.] A property interest is defined as 'a legitimate claim of entitlement to [a benefit].' [Citation.] Thus, 'to have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it.'" (*Id.* at p. 268.)

Plaintiffs rehash all of their foregoing arguments under the guise of deprivation of a legitimate claim of entitlement. However, we have explained that none of plaintiffs' arguments have merit. Accordingly, none can serve as a legitimate claim of entitlement to support a due process claim.

We conclude plaintiffs fail to show grounds for reversal as to their federal civil rights claim.

VII. Declaratory/Injunctive Relief

Our rejection of plaintiffs' [*81] foregoing arguments also leaves them unable to show grounds for reversal of their claim for declaratory or injunctive relief, in which they sought to declare the mining permits and extensions void and to require the County to comply with laws for implementing the general plan.

DISPOSITION

The judgment is affirmed. The County, the Teichert parties, and the CEMEX parties shall recover their costs on appeal. (*Cal. Rules of Court*, rule 8.278(a)(1).)

MURRAY, J.

We concur:

BLEASE, Acting P. J.

DUARTE, J.

End of Document



SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment E Environmental Document

This page intentionally left blank.



Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Jennifer Jolley, Director

Eric Merlo, Assistant Director

Tim Burns, Code Enforcement Chief

Corinne King, Deputy Director of Planning

Jeff Niemeyer, Deputy Director of Building Inspection

NOTICE OF EXEMPTION

TO: ☒ Office of Planning & Research
P. O. Box 3044, Room 212
Sacramento, CA 95812-3044

FROM: San Joaquin County
Community Development Department
1810 East Hazelton Avenue
Stockton, CA 95205

☒ County Clerk, County of San Joaquin

Project Title: Administrative Use Permit No. PA-2500240

Project Location - Specific: The project site is on the east side of South Koster Road, 4,315' south of Blewett Road, Tracy. (APN/Address: 265-090-08, -09, -10 / 37100 S. Koster Rd., Tracy) (Supervisory District: 5)

Project Location - City: Tracy

Project Location - County: San Joaquin County

Project Description: Administrative Use Permit application to permit construction of one Single Family Residence (SFR) on each of three parcels with a General Plan designation of OS/RC (Open Space, Resource Conservation). The proposed parcels (PA-2500324) are proposed lots of Parcel 1 will contain 14.10 acres, Parcel 2 will contain 2.39 acres, and Parcel 3 will contain 2.51 acres. The proposed SFR's homes are anticipated to be in the range of 2,000 to 3,000 square feet (not including attached garages). All three parcels will have access from the County-maintained South Koster Road. Two new domestic wells will be constructed, and one existing well will be utilized. Domestic wastewater systems will be served by individual septic tank and leach field systems. Stormwater will be managed privately on-site. None of the parcels are under a Williamson Act Contract. The Property is zoned AG-40 (General Agriculture, 40-acre minimum) and the General Plan designation is OS/RC (Resource Conservation).

Project Proponent(s): Roger & Catherine C. Towers / Roger & Catherine C. Towers

Name of Public Agency Approving Project: San Joaquin County Planning Commission

Name of Person or Agency Carrying Out Project: Jacob Pahule, Associate Planner
San Joaquin County Community Development Department

Exemption Status:
Categorical Exemption. (Section 15303)

Exemption Reason:
Processed under the provisions of the California Code of Regulations Section 15303, which are exempt from CEQA. This project is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303. Class 3 Categorical Exemptions includes a list of classes of projects that have been determined not to have a significant effect on the environment and that are, therefore, exempt from the provisions of CEQA. Section 15303 lists Class 3 projects, which include "construction and location of limited numbers of new, small facilities or structures: installation of small new equipment and facilities in small structure." The proposed SFRs are small structures with no expected significant effect on the environment and, therefore, the project is not subject to CEQA.

Lead Agency Contact Person:
Jacob Pahule Phone: (209) 468-3186 Fax: (209) 468-3163 Email: jpahule@sjgov.org

Signature: _____ Date: _____

Name: Sean Cardenas Title: Deputy County Clerk

Signed by Lead Agency

Date Received for filing at OPR: _____

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

This page intentionally left blank.



SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment F Findings for Administrative Use Permit

This page intentionally left blank.

FINDINGS FOR ADMINISTRATIVE USE PERMIT

PA-2500240

ROGER & CATHERINE C. TOWERS

1. The proposed use is consistent with the goals, policies, standards, and maps of the General Plan, any applicable Master Plan, Specific Plan, and Special Purpose Plan, and any other applicable plan adopted by the County.
 - This finding can be made because the project proposes construction of one single-family residence on each of three legal parcels identified as APNs 265-090-08, 265-090-09, and 265-090-10. The parcels have a General Plan designation of OS/RC (Resource Conservation) and are zoned AG-40 (General Agriculture, 40-acre minimum). Single-family residences are permitted within the AG-40 zoning district, and pursuant to Development Title Section 9-707.050, proposed development within areas designated Open Space/Resource Conservation requires approval of an Administrative Use Permit. The project consists of low-density residential development on three existing legal parcels, including one single-family residence per parcel and future accessory residential development customarily associated with those residences, and is consistent with the rural character of the surrounding area. Therefore, the proposed use is consistent with the goals, policies, standards, and maps of the General Plan. There are no applicable Master Plans, Specific Plans, or Special Purpose Plans affecting the project site.
2. Adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, and the proposed improvements are properly related to existing and proposed roadways.
 - This finding can be made because each proposed residence will be served by an individual domestic water well and individual onsite wastewater treatment system, subject to review and approval by the San Joaquin County Environmental Health Department. Access to all three parcels is provided from South Koster Road, a County-maintained roadway. Public Works has reviewed the project and determined that adequate roadway access, drainage facilities, and related infrastructure can be provided subject to standard conditions of approval. Stormwater will be managed through privately maintained onsite drainage facilities in accordance with County standards. Therefore, adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities can be provided to serve the proposed use.
3. The site is physically suitable for the type of development and for the intensity of development.
 - This finding can be made because the project site consists of three legal parcels totaling approximately 18.99 acres. The project proposes one single-family residence on each parcel, consistent with the size and configuration of the site. The parcels have direct access to South Koster Road and are capable of accommodating the proposed residences, domestic wells, septic systems, future accessory residential development, and associated site improvements. Therefore, the site is physically suitable for the type and intensity of development proposed.
4. The location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.
 - This finding can be made because the project proposes construction of three single-family residences and future accessory residential development within a predominantly rural area characterized by agricultural and open space, resource-related land uses. The proposed residences are anticipated to range from approximately 2,000 to 3,000 square feet in size and will be located on agricultural parcels ranging from approximately 3.1 acres to 12.8 acres in size. Residential development is a permitted use in the AG-40 (General Agriculture, 40-acre minimum) zone and exists within the surrounding area. The nearest existing

residential use is located on an adjacent parcel and only approximately 250 feet south of the project site. Although the project site is located across South Koster Road from an existing quarry operation, the proposed residences are permitted residential land uses within the AG-40 zoning district and have been adequately reviewed through a discretionary process required by Development Title Section 9-707.050 in the OS/RC General Plan designation. As a result of this review, staff has determined that the location, size, design, and operating characteristics of the proposed use will be compatible with surrounding land uses and will not adversely affect the livability or appropriate development of abutting properties. Further, although the site is designated as potentially containing significant sand and gravel deposits, the proposed residential development will not impact these resources. The residential development may prevent future mining activities on site, the development will not negatively impact these resources that will remain untouched underneath the proposed development. If mining becomes feasible in the future, the homes may be removed without impact to these resources.

5. The proposed use will not create any nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding ambient conditions.
 - This finding can be made because the project consists of construction and occupancy of three single-family residences and associated residential improvements. Residential uses do not typically generate odor, dust, gas, noise, vibration, smoke, heat, or glare at levels exceeding ambient conditions within agricultural areas. Any temporary impacts associated with construction activities will be subject to applicable County regulations and standard construction practices. Following construction, the proposed residences will operate in a manner consistent with other residential uses throughout the County. Therefore, the proposed use is not expected to create nuisances exceeding ambient conditions.
6. The site of the proposed use is adequately served by highways, streets, water, storm drainage, and other public facilities and services.
 - This finding can be made because access to the project site is provided by South Koster Road, a County-maintained roadway capable of serving the proposed residential development. Water service will be provided by individual domestic wells and wastewater disposal will be provided through individual onsite wastewater treatment systems, subject to Environmental Health Department review and approval. Stormwater drainage facilities will be designed in accordance with County requirements and reviewed by the Public Works Department. The project does not require extension of public sewer infrastructure or substantial expansion of public facilities. Therefore, the site is adequately served by highways, streets, water supply, storm drainage, and other public facilities and services necessary to support the proposed use.
7. The proposed use complies with all applicable provisions of this Title.
 - This finding can be made because the proposed project is subject to review through an Administrative Use Permit pursuant to Development Title Section 9-707.050, which requires an Administrative Use Permit for proposed development within areas designated Open Space/Resource Conservation on the General Plan Land Use Map. The project has been reviewed by applicable County departments and agencies and will be subject to conditions of approval to ensure compliance with all applicable provisions of the San Joaquin County Development Title. Any future accessory dwelling units, junior accessory dwelling units, accessory structures, and accessory uses authorized by this Administrative Use Permit shall remain subject to all applicable Building, Environmental Health, Public Works, and Development Title requirements in effect at the time of permit issuance. Therefore, the proposed use complies with all applicable provisions of the Development Title.



SAN JOAQUIN
—COUNTY—
Greatness grows here.

Community Development Department

Planning · Building · Code Enforcement · Fire Prevention

Attachment G **Conditions of Approval**

This page intentionally left blank.

CONDITIONS OF APPROVAL

PA-2500240

ROGER & CATHERINE C. TOWERS

Administrative Use Permit No. PA-2500240 was approved by the Planning Commission on July 16, 2026. The effective date of approval is July 26, 2026. This approval will expire on July 26, 2029, which is thirty-six (36) months from the effective date of approval, unless (1) all Conditions of Approval have been complied with, (2) all necessary building permits have been issued and remain in force, and (3) all necessary permits from other agencies have been issued and remain in force.

Unless otherwise specified, all Conditions of Approval and ordinance requirements shall be fulfilled prior to the establishment of the use and the issuance of any building permits. Those Conditions followed by a Section Number have been identified as ordinance requirements pertinent to this application. Ordinance requirements cannot be modified, and other ordinance requirements may apply.

1. COMMUNITY DEVELOPMENT DEPARTMENT (Contact: [209] 468-3121)

- a. **BUILDING PERMIT:** Submit an "APPLICATION- BUILDING PERMIT". The Site Plan required as a part of the building/grading permit must be prepared by a registered civil engineer or licensed architect. This Plan must show drainage, driveway access details including gates, on-site parking, landscaping, signs, existing and proposed utility services, and grading (refer to the "SITE PLAN CHECK LIST" for details). Foundation and soils investigation shall be conducted in conformance with Chapter 18 of the California Building Code at the time of permit application. A fee is required for the Site Plan review. (Development Title Section 9-408.140)
- b. **APPROVED USE:** This approval authorizes construction of one single-family residence on each of three legal parcels with a General Plan designation of OS/RC (Open Space/Resource Conservation), as depicted on the approved Site Plan dated October 7, 2025. This approval also includes authorization for future development of an accessory dwelling unit (ADU), a junior accessory dwelling unit (JADU), and accessory structures on each parcel.
- a. **CAPITAL FACILITY FEE:** This project may be subject to the Capital Facility Fee. If the Capital Facility Fee is applicable, the County shall collect the fees before the issuance of any building permits. (Development Title Section 9-610.070)

2. DEPARTMENT OF PUBLIC WORKS (Contact: [209] 468-3000)

- a. An encroachment permit shall be required for all work within road right-of-way. (Note: Driveway encroachment permits are for flatwork only – all vertical features, including but not limited to fences, walls, private light standards, rocks, landscaping and cobbles are not allowed in the right-of-way.) (Development Title Sections 9-607.020 and 9-607.040)
- b. The driveway approach shall be improved in accordance with the requirements of San Joaquin County improvement Standards Drawing No. 17 prior to issuance of the occupancy permit. (Development Title Section 9-607.040)
- c. The Traffic Impact Mitigation Fee shall be required for this application. The fee is due and payable at the time of building permit application. The fee shall be automatically adjusted July 1 of each year by the Engineering Construction Cost Index as published by the Engineering News Record. (Resolution R-00-433)
- d. The Regional Transportation Impact Fee shall be required for this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. (Resolution R-06-38)
- e. The developer shall provide drainage facilities in accordance with the San Joaquin County Development Standards. Retention basins shall be fenced with 6 foot high chain link fence or equal

when the maximum design depth is 18 inches or more. Required retention basin capacity shall be calculated and submitted along with a drainage plan for review and approval, prior to release of building permit. (Development Title Section 9-606)

- f. A copy of the Final Site Plan shall be submitted prior to release of building permit.
- g. This project is subject to the NPDES Region-Wide Permit requirements and shall comply with the following conditions. Prior to release of the building permit, plans and calculations shall be submitted and approved by the Public Works Department – Water Resources Division (209-468-9360):
 - 1. Treatment: A registered professional engineer shall design the site to treat the 85th percentile storm as defined in the County's 2023 Storm Water Quality Control Criteria Plan (SWQCCP).
 - 2. Hydromodification: A registered professional engineer shall design the site to comply with the volume reduction requirement outlined in the County's 2023 SWQCCP.
 - 3. Trash: A registered professional engineer shall design the site to comply with the trash control requirement outlined in the County's 2023 SWQCCP.
- h. Prior to release of the building permit, the owner shall enter into an agreement with San Joaquin County for post-construction maintenance of stormwater quality facilities.
- i. Prior to release of the building permit the applicant shall submit a Storm Water Quality Control Plan (SWQCP) to Public Works that complies with all requirements of the 2023 SWQCCP
- j. Prior to release of the building permit the applicant shall submit the Storm Water Pollution Prevention Plan (SWPPP) to Public Works. A copy of the approved SWPPP and all required records, updates, test results and inspection reports shall be maintained on the construction site and be available for review upon request.
- k. Applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) and comply with the State "General Permit for Storm Water Discharges Associated with Construction Activity". The Waste Discharge Identification Number (WDID), issued by SWRCB, shall be submitted to Public Works prior to release of the building permit. Contact the SWRCB at 1-866-563-3107 for further information.

3. ENVIRONMENTAL HEALTH DEPARTMENT (Contact: [209] 468-3420)

- a. A soil suitability and nitrate loading study incorporating proposed staff and customer use shall be submitted to the Environmental Health Department, indicating that the area is suitable for septic system usage. The studies must be approved by the Environmental Health Department prior to issuance of building permit(s). (San Joaquin County Development Title, Section 9-604.010(d)). The fee will be based on the current schedule at the time of payment.

The sewage disposal system shall comply with the onsite wastewater treatment systems standards of San Joaquin County prior to approval. A percolation test conducted in accordance with the E.P.A. Design Manual - Onsite Wastewater and Disposal Systems is required for each parcel. The fee will be based on the current schedule at the time of payment.

- b. Prior to issuance of building permit, submit to the Environmental Health Department revised site plans showing the location and configuration of any existing and proposed sewage disposal systems, along with the area required to be reserved for future sewage disposal repair/replacement (area for 100% sewage disposal replacement). The plans shall include the design calculations, including the maximum number of persons the sewage disposal system is proposed to serve. In addition, show on revised plans that the disposal field area will be barricaded so it cannot be driven over, parked on, or used as a storage area. This disposal field

area must be used for that specific purpose only, and it cannot contain any underground utility lines (San Joaquin County Development Title, Section 9-605.010(c)(3)(5)).

Construction of an individual sewage disposal system(s) under permit and inspection by the Environmental Health Department is required at the time of development based on the **Soil Suitability/Nitrate Loading Study findings** (San Joaquin County Development Title, Section 9-605.010).

- c. Construction of an individual domestic water well for each parcel, under permit and inspection by the Environmental Health Department is required at the time of development (San Joaquin County Development Title, Section 9-601.010 (b)).
- d. Any existing wells or septic systems to be abandoned shall be destroyed under permit and inspection by the EHD (San Joaquin County Development Title, Section 9-605.010 & 9-601.020)
- e. Any geotechnical drilling shall be conducted under permit and inspection by The Environmental Health Department (San Joaquin County Development Title, Section 9-601.010(b) and 9-601.020(i)).

4. SAN JOAQUIN COUNCIL OF GOVERNMENTS (Contact: [209] 235-0600)

- a. At this time, the applicant is requesting a Lot Line Adjustment with no ground disturbance. Any future ground disturbing activities (e.g. roads, curb, gutter, electrical, water, etc.) or any physical structures that require ground disturbance on this or subsequent divided parcels will be subject to participate in the SJMSCP before ANY ground disturbance occurs and should be resubmitted to this agency. Current or future owners of this-or subdivided properties should be made aware of the conditions that are placed by the SJMSCP on future development on the created parcels.
- b. This project is subject to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). The applicant must provide a Certificate of Payment prior to issuance of any grading or building permits.

5. SAN LUIS & DELTA-MENDOTA WATER AUTHORITY (Contact: [209] 832-6222)

- a. Any use, grading, construction, or encroachment within the restricted area requires prior written approval from the Bureau of Reclamation.
