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**RESOURCE MANAGEMENT
AGENCY
COUNTY OF TULARE
PLANNING COMMISSION
SUMMARY**

PLANNING COMMISSION

CHAIRMAN: Carlos Aleman
VICE-CHAIR: Terren Brown
COMMISSIONERS:

Christopher Launer
Dennis Lehman
Bill Whitlatch
Wayne Millies
Gil Aguilar

ALTERNATE: Mathew Stoll
AIRPORT LAND USE COMMISSIONERS
(ALUC)

Mathew Stoll

Project Number: Special Use Permit No. PSP 24-065	Agenda Date:	04/23/2025
Applicant: Foxtail Solar, LLC.	Agenda Item Number:	5C
Agent: Same As Applicant	AGENDA ITEM TYPE	
Subject: Mitigated Negative Declaration and conditionally approving Special Use Permit No. PSP 24-065 to allow a 55 MW Solar Array and a 55 MW BESS (Battery Energy Storage System, requested by Foxtail Solar, Inc., 17785 Center Court Drive, Suite 200, Cerritos, CA 90703, on behalf of property owner Joe V. Cardoza III, 18839 Road 80, Tulare, CA 93274, on approximately 450 acres of 475.50 acre parcel, in the AE-40 (Exclusive Agriculture – 40 Acre Minimum) Zone, within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture, located at 18839 Road 80, Tulare, CA 93274, on the west side of Road 80, approximately 6.6 miles southeast of the intersection of State Route 99 and State Route 137. It lines within Section 5, Township 21 South, Range 24 East, MDB&M entirely within APN 228-050-020. Exceptions: N/A Waiver: N/A Environmental Review: Mitigated Negative Declaration consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines pursuant to Title 14, Cal. Code Regulations Section 15074, pertaining to Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration. Motion(s): One Contact Person: David Alexander	Presentation	
	Consent Calendar	
	Unfinished Business	
	New Business	
	Public Hearing	X
	Continued Public Hearing	
	Discussion	
ACTION REQUESTED		
	Resolution – Board of Supervisors	
	Resolution – Planning Commission	X
	Decision - Director	

RECOMMENDATIONS:

That the Planning Commission:

1. Hold a Public Hearing.
2. Conditionally approve Special Use Permit No. PSP 24-065.
3. Approve a Mitigated Negative Declaration consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines pursuant to Title 14, Cal. Code Regulations Section 15074, pertaining to Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration.

PLANNING COMMISSION ALTERNATIVES:

Alternative No. 1: Move to approve, subject to modifications through addition or deletion of conditions as discussed.

Alternative No. 2: Move to deny and direct staff to prepare findings for denial to be brought back at a subsequent hearing.

Alternative No. 3: Refer back to Staff for further study and report.

SUBJECT: Special Use Permit No. PSP 24-065 (Foxtail Solar, LLC.)

PROJECT OVERVIEW:

A Mitigated Negative Declaration and conditional approval of Special Use Permit No. PSP 23-069 to allow a five (5) MW Solar Array and a BESS (Battery Energy Storage System, requested by Tulare CSG 2, LLC., 11100 Santa Monica Boulevard, Suite 780, Los Angeles, CA 90025, on behalf of property owner RTS Orchards, LLC., 4831 Calloway Drive, Suite 102, Bakersfield, CA 93312, on approximately 25 acres of 80 acres across two (2) APNs, in the AE-40 (Exclusive Agriculture – 40 Acre Minimum) Zone, within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture, located northeast of Avenue 160 and Road 180 southern San Joaquin Valley approximately 1.25 miles southeast of Woodville, CA (APNs 236-100-003 & 004).

ENVIRONMENTAL SUMMARY:

Mitigated Negative Declaration consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines pursuant to Title 14, Cal. Code Regulations Section 15074, pertaining to Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration.

HISTORY:

There are no current or past violations associated with the subject parcels.

Project Review Committee Application No. PRC 23-066 was approved for the applicant to submit the Special Use Permit application on February 1, 2024.

ENTITLEMENT(S):

Section 16 of Ordinance No. 352, as amended, the zoning ordinance allows the construction and operation of public utility structures in the AE-40 Zone, subject to approval of a special use permit.

Tulare County Zoning Ordinance No. 352, Resolution No. 2010-0458 and 2010-0590 included both Solar and Wind Electrical Generation Facilities under the definition of Private and Public Utility Structures and Resolution No. 2010-0590 included Agricultural Zone Districts as a Special Use Permit requirement.

GENERAL PLAN:

The site is located within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture. The Project is consistent with the following relevant General Plan 2030 Policies: (1) AG-2.11 Energy Production; (2) LU-7.15 Energy Conservation; (3) ERM-4; (4) ERM-4.1; (5) ERM-4.3; (6) ERM-4.5; (7) ERM-4.6; (8) AQ-1; (9) AQ-1.7; (10) AQ-3.5; (11) HS-8.18; and (12) HS-8.19.

Agricultural Preserve - The subject parcel is under a Williamson Act Land Conservation Contract, Preserve No. 1047, and Contract No. 4538.

ZONING:

The project site is located in the AE-40 (Exclusive Agriculture – 40 acre minimum) Zone and contains field crop agriculture. All surrounding properties of the subject site are zoned AE-40, and contains agricultural and a dairy operation.

North – Agriculture developed land improved with operating dairies and accessory structures zoned AE-40 (Exclusive Agriculture, 40-acre minimum).

East – Agricultural land zoned AE-40.

South- Agricultural land zoned AE-40 and a Southern California Edison (SCE) electrical substation.

SUBJECT: Special Use Permit No. PSP 24-065 (Foxtail Solar, LLC.)

West- Agricultural land zoned AE-40.

PROJECT SUMMARY:

The purpose of the proposed Project is to construct and operate a PV solar array with attached battery storage, which will generate and store clean and renewable solar energy, with electricity offtake sold to residential customers within Tulare County and the larger Southern California Edison (“SCE”) Utility Territory. The Project is proposed under the California Assembly Bill 2316 (AB2316), adopted by the California legislature in 2022. AB2316 instructs the California Public Utilities Commission to establish a new community solar program by March 2024 which will bolster the reliability of the electrical grid while benefitting those who cannot put solar on their roofs. The law requires that under the new program at least 51% of community solar subscribers must be low-income, and that projects will be built by workers paid prevailing union wages.

The proposed Project would install approximately 108,344 single-axis tracker solar panels on the site. The layout of the single axis tracker solar panels will be in an east-west direction. The maximum height of the would be up to 10 feet above grade at the beginning and end of each day. Each solar panel would be attached to embedded piers using a support structure. Module layout and spacing is typically optimized to balance energy production versus peak capacity and depends on the sun angles and shading due to the surrounding horizon of the site. The modules would typically be mounted with the longer side-oriented east to west across the tracker system’s north-south axis. Individual arrays of modules would be combined to generate the total plant capacity.

The AC-DC electrical collection system includes all cables and combiners that collect electricity from the panels, delivers it to the inverters, collects it from the inverters, and ultimately delivers it to the Project switching station(s). The collection system would likely be installed along internal access roads to collect power from the rows of modules and deliver it to the switching station. This collection system would likely be installed in subsurface trenches, though in some areas of the site, part or all the collection system may be housed in above-grade raceways mounted on supports approximately 24-36 inches above ground level. The collection system would be rated at between 1,000-2,000 volts DC until it reached the inverters and a 33 kV AC intermediate voltage system between the inverters and the project switching station.

The Project would use a typical unmanned field control system. The controls generally include a field supervisory controller in a central location and local microprocessor controllers connected to each tracker, if trackers are to be used. The field control system monitors solar insolation, wind velocity, and tracker performance and status, and communicates with all the local microprocessor controllers. When the appropriate conditions exist, the field supervisory controller initiates the trackers’ daily tracking of the sun, and at the end of the day stows the trackers in the solar array.

The DC electricity produced by the solar panels is converted to three-phase alternating current by a series of inverters. The solar facility and BESS would each require up to 16 inverters. Alternating current is the type of electricity usable by the electric utility and is the form required to connect to the transmission system. The inverter pad equipment includes a transformer that steps up the electricity in its new form to an output voltage of 66 kV. This electricity is then transmitted via the medium voltage collection system to the switching station.

As proposed, the proposed project includes a BESS that would be located within the project footprint. The BESS would encompass a maximum of approximately 3.43 total acres. The BESS, would be

SUBJECT: Special Use Permit No. PSP 24-065 (Foxtail Solar, LLC.)

installed/constructed on the project site and would have appropriate fire suppression systems built to applicable state and local code requirements. The final design would include appropriate containment features (secondary containment) to prevent the escape of liquids or spills from the BESS site.

The BESS would be contained within an outdoor-rated steel enclosure and electrically connected to the inverters. The modular container stacks would be set on a concrete or steel pile foundation and would be approximately 8 feet wide by 72 feet long by 11 feet high. The proposed BESS would be designed, constructed, operated, and maintained in accordance with applicable industry best practices and regulatory requirements, including compliance with the latest National Fire Protection Association (NFPA) fire safety codes and fire rating in conformance with Tulare county standards.

The BESS would use one of several commercially available lithium ion (Li ion) technologies, though alternatives may be considered (such as flow batteries). Due to the rapidly changing technology in the battery industry, it may be more efficient, environmentally conscious, and economical, to use a then-current technology.

As planned, the BESS would consist of self-contained battery storage modules placed in racks, switchboards, inverters, transformers, controls, and integrated heating, ventilation, and air conditioning (HVAC) units, all enclosed in one or more buildings or in prefabricated metal modular container stacks. Potential hazards associated with BESS include increased potential for electrical shock and chemical release associated with the batteries used. The BESS would have fire suppression systems that would have a fire rating and built to applicable State and local code requirements. Also, implementation of established construction controls and safety procedures would reduce the risk of hazardous materials spills and releases.

The proposed battery energy storage system would be designed, constructed, operated and maintained in accordance with applicable industry best practices and regulatory requirements, including fire safety standards.

The facility will operate automatically, be remotely monitored, and remain unmanned. Occasional site visits would occur for security, maintenance, and repairs.

The solar array and all balance of system equipment will be enclosed in a seven-foot-tall chain link fence in compliance with the National Electric Code. The fence will have at least one vehicle access gate at the boundary of the array, which will always remain locked, except during operations and maintenance activities. A Knox box will be installed at the entrance gate to provide 24-hour access for emergency responders.

No new water infrastructure is proposed in association with the Project and minimal water will be used as needed for construction and maintenance activities such as dust mitigation and panel washing.

Sewer and Solid Waste Sewer services are proposed in association with the Project. Temporary sanitary facilities will be placed onsite during construction. Solid waste is anticipated to be produced only during construction, primarily comprised of equipment packaging, and will be disposed of in accordance with County standards offsite.

The Tulare County Environmental Health Services Division, the Tulare County Public Works/Engineering Division, the Tulare County Fire Department, the Tulare County Code Enforcement,

SUBJECT: Special Use Permit No. PSP 24-065 (Foxtail Solar, LLC.)

the Tulare County Environmental Coordinator, the California State Department of Fish and Wildlife District 4, the California State Regional Water Quality Control Board District 5, the San Joaquin Valley Air Pollution Control District, the California State Public Utilities Commission, the California State Department of Conservation, Edison international, and the Tulare County Farm Bureau were sent a consultation request.

DEVELOPER AGREEMENT:

Tulare County Zoning Ordinance No. 352, by Board of Supervisors Resolution No. 2010-0458 (as amended by Resolution No. 2010-0590) requires a Developer Agreement that includes a Reclamation Plan and Sales Tax Agreement.

Reclamation Plan: A Reclamation Plan is required to return the land to its current, or better, agricultural condition. To ensure reclamation is performed, financial assurances are required by the developer based upon an engineer's estimated probable cost of the reclamation. The Reclamation Plan will incorporate a Storm Water Pollution Prevention Plan (SWPPP) and Dust Control Measures; the dismantling and removal of all equipment from the site, to include recycling and disposal of E-waste; site demolition, to include the removal of fencing and gravel; and site reclamation, to include finish grading and the application of compost and seed mixture.

Sales Tax Agreement: A Sales Tax Agreement will require the project location to be considered as the point-of-sales to maximize the capture of sales and use tax revenue for Tulare County.

PUBLIC HEARING NOTICE:

Government Code Section 65009(b) requires the County to include in any public notice issued pursuant to Government Code, Title 7, Planning and Land Use, a notice substantially stating all of the following: "If you challenge the environmental determination and use permit, 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 County of Tulare at, or prior to, the public hearing."

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PROJECT PLANNER:



David Alexander, Planner III
Project Processing Division

PROJECT PROCESSING DIVISION



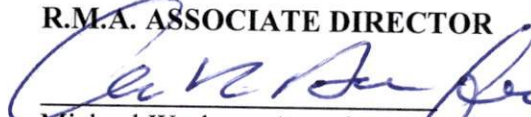
Aaron R. Bock, MCRP, JD, LEED AP
Assistant RMA Director
Economic Development & Planning Branch

ENVIRONMENTAL PLANNING DIVISION



Gary A. Mills, Chief Planner
Environmental Planning Division
Economic Development & Planning Branch

R.M.A. ASSOCIATE DIRECTOR



Michael Washam, Associate Director
Resource Management Agency

ATTACHMENTS:

- Attachment No. 1 – Draft Resolution Conditionally Approving PSP 24-065
 - Exhibit “A” – Site Plan
 - Exhibit “B” – Right to Farm Notice
 - Exhibit “C” – Compliance Monitoring and Reporting Schedule
- Attachment No. 2 – Developers Agreement
- Attachment No. 3 – Agreement for Allocation of Sales and Use Tax Revenues
- Attachment No. 4 – Staff Report/Initial Study
- Attachment No. 5 – Graphics
- Attachment No. 6 – Consulting Agency List and Correspondence
- Attachment No. 7 – Location and Property Ownership Map for Hearing Notification
- Attachment No. 8 – Public Hearing Notice

BEFORE THE PLANNING COMMISSION

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF SPECIAL USE PERMIT)	
NO. PSP 24-065 FOR A 55 MW SOLAR)	
PHOTOVOLTAIC ELECTRICAL)	RESOLUTION NO. DRAFT
GENERATION FACILITY WITH BATTERY)	
ENERGY STORAGE SYSTEM)	
FOXTAIL SOLAR, LLC.)	

Resolution of the Planning Commission of the County of Tulare accepting the Mitigated Negative Declaration as the appropriate environmental determination and conditionally approving Special Use Permit No. PSP 24-065 to allow a 55 MW Solar Array and a 55 MW BESS (Battery Energy Storage System, requested by Foxtail Solar, LLC., 17785 Center Court Drive, Suite 200, Cerritos, CA 90703, on behalf of property owner Joe V. Cardoza III, 18839 Road 80, Tulare, CA 93274, on approximately 450 acres of 475.50 acre parcel, in the AE-40 (Exclusive Agriculture – 40 Acre Minimum) Zone, within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture, located at 18839 Road 80, Tulare, CA 93274, on the west side of Road 80, approximately 6.6 miles southeast of the intersection of State Route 99 and State Route 137. It lines within Section 5, Township 21 South, Range 24 East, MDB&M entirely within APN 228-050-020.

WHEREAS, an application for a Special Use Permit has been filed pursuant to the regulations contained in Section 16 of Ordinance No. 352, the Zoning Ordinance; and

WHEREAS, the Planning Commission has given notice of its intention to consider the granting of a Special Use Permit as provided in Section 18 of said Ordinance No. 352 and as provided in Section 65905 of the Government Code of the State of California; and

WHEREAS, The County Board of Supervisors approved Resolution No. 2010-0458 that provides the determination that Solar and Wind Electrical Generation Facilities are included within the meaning of Public and Private Utility Structures in the Tulare County Zoning Ordinance; and

WHEREAS, Staff has performed necessary investigations, prepared a written report and recommended approval of this application subject to certain conditions of approval, and

WHEREAS, all attached exhibits are incorporated by reference herein; and

WHEREAS, on April 9, 2025, a Notice of Public Hearing by the Tulare County Planning Commission was duly published in the Exeter Sun-Gazette, a newspaper of general circulation in Tulare County to consider the proposed Project; and

WHEREAS, a public hearing was held and an opportunity for public testimony was provided at a regular meeting of the Planning Commission on April 23, 2025, and at the meeting of the Commission public testimony was received and recorded from the applicant.

NOW, THEREFORE, BE IT RESOLVED as follows:

A. This Planning Commission hereby certifies that the Commission has reviewed and considered the information contained in the staff report for the proposed project together with any comments received during the public review process, in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Quality Act of 1970 prior to taking action on the project.

B. This Planning Commission hereby adopts the following findings of fact as to the reasons for approval of this application:

1. The applicant has requested a Mitigated Negative Declaration as the appropriate environmental determination and conditionally approving Special Use Permit No. PSP 24-065 to allow a 55 MW Solar Array and a 55 MW BESS (Battery Energy Storage System, requested by Foxtail Solar, LLC., 17785 Center Court Drive, Suite 200, Cerritos, CA 90703, on behalf of property owner Joe V. Cardoza III, 18839 Road 80, Tulare, CA 93274, on approximately 450 acres of 475.50 acre parcel, in the AE-40 (Exclusive Agriculture – 40 Acre Minimum) Zone, within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture, located at 18839 Road 80, Tulare, CA 93274, on the west side of Road 80, approximately 6.6 miles southeast of the intersection of State Route 99 and State Route 137. It lines within Section 5, Township 21 South, Range 24 East, MDB&M entirely within APN 228-050-020.
2. Section 16 of Ordinance No. 352, as amended, allows the construction and operation of public utility facilities in the AE-40 Zone, subject to the approval of a special use permit. Public utility facilities have been interpreted by the Board of Supervisors to include Solar and Wind Electrical Generation Facilities (BOS Resolution No. 2010-0458).

Tulare County Zoning Ordinance No. 352, Resolution No. 2010-0458 and 2010-0590 included both Solar and Wind Electrical Generation Facilities under the definition of Private and Public Utility Structures and Resolution No. 2010-0590 included Agricultural Zone Districts as a Special Use Permit requirement.
3. The project is Mitigated Negative Declaration from the California Environmental Quality Act (CEQA) and the State CEQA Guidelines for the Implementation of the California Environmental Quality Act of 1970, as amended, pursuant to Title 14, Cal. Code Regulations Section 15074, pertaining to Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration. As the proposed project use is less than the current by right use agriculture. Due to onsite water use not being allowed, no pesticide use will be necessary, and air bourn particulates created by agriculture will be eliminated, the use of Section 15074, pertaining to

Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration is applicable.

4. The project site is located in the AE-40 (Exclusive Agriculture – 40 acre minimum) Zone and contains field crop agriculture. All surrounding properties of the subject site are zoned AE-40, and contains agricultural and a dairy operation.

North – Agriculture developed land improved with operating dairies and accessory structures zoned AE-40 (Exclusive Agriculture, 40-acre minimum).

East – Agricultural land zoned AE-40.

South- Agricultural land zoned AE-40 and a Southern California Edison (SCE) electrical substation.

West- Agricultural land zoned AE-40.

5. The project site is located within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture. The Project is consistent with the following relevant General Plan 2030 Policies: (1) AG-2.11 Energy Production; (2) LU-7.15 Energy Conservation; (3) ERM-4; (4) ERM-4.1; (5) ERM-4.3; (6) ERM-4.5; (7) ERM-4.6; (8) AQ-1; (9) AQ-1.7; (10) AQ-3.5; (11) HS-8.18; and (12) HS-8.19.

6. There are no current or past violations associated with the subject parcel.

Project Review Committee Application No. PRC 23-066 was approved for the applicant to submit the Special Use Permit application on February 1, 2024.

7. The subject parcel is under a Williamson Act Land Conservation Contract, Preserve No. 1047, and Contract No. 4538.
8. The Tulare County Environmental Health Services Division, the Tulare County Public Works/Engineering Division, the Tulare County Fire Department, the Tulare County Code Enforcement, the Tulare County Environmental Coordinator, the California State Department of Fish and Wildlife District 4, the California State Regional Water Quality Control Board District 5, the San Joaquin Valley Air Pollution Control District, the California State Public Utilities Commission, the California State Department of Conservation, Edison international, and the Tulare County Farm Bureau were sent a consultation request.
9. The purpose of the proposed Project is to construct and operate a PV solar array with attached battery storage, which will generate and store clean and renewable solar energy, with electricity offtake sold to residential customers within Tulare County and the larger Southern California Edison (“SCE”) Utility Territory. The Project is proposed under the California Assembly Bill 2316 (AB2316), adopted by the California legislature in 2022. AB2316 instructs the California Public Utilities Commission to establish a new community solar program by March 2024 which will bolster the reliability of the electrical grid while benefitting those who cannot

put solar on their roofs. The law requires that under the new program at least 51% of community solar subscribers must be low-income, and that projects will be built by workers paid prevailing union wages.

10. The proposed Project would install approximately 108,344 single-axis tracker solar panels on the site. The layout of the single axis tracker solar panels will be in an east-west direction. The maximum height of the would be up to 10 feet above grade at the beginning and end of each day. Each solar panel would be attached to embedded piers using a support structure. Module layout and spacing is typically optimized to balance energy production versus peak capacity and depends on the sun angles and shading due to the surrounding horizon of the site. The modules would typically be mounted with the longer side-oriented east to west across the tracker system's north-south axis. Individual arrays of modules would be combined to generate the total plant capacity.
11. The AC-DC electrical collection system includes all cables and combiners that collect electricity from the panels, delivers it to the inverters, collects it from the inverters, and ultimately delivers it to the Project switching station(s). The collection system would likely be installed along internal access roads to collect power from the rows of modules and deliver it to the switching station. This collection system would likely be installed in subsurface trenches, though in some areas of the site, part or all the collection system may be housed in above-grade raceways mounted on supports approximately 24-36 inches above ground level. The collection system would be rated at between 1,000-2,000 volts DC until it reached the inverters and a 33 kV AC intermediate voltage system between the inverters and the project switching station.
12. The Project would use a typical unmanned field control system. The controls generally include a field supervisory controller in a central location and local microprocessor controllers connected to each tracker, if trackers are to be used. The field control system monitors solar insolation, wind velocity, and tracker performance and status, and communicates with all the local microprocessor controllers. When the appropriate conditions exist, the field supervisory controller initiates the trackers' daily tracking of the sun, and at the end of the day stows the trackers in the solar array.
13. The DC electricity produced by the solar panels is converted to three-phase alternating current by a series of inverters. The solar facility and BESS would each require up to 16 inverters. Alternating current is the type of electricity usable by the electric utility and is the form required to connect to the transmission system. The inverter pad equipment includes a transformer that steps up the electricity in its new form to an output voltage of 66 kV. This electricity is then transmitted via the medium voltage collection system to the switching station.

14. As proposed, the proposed project includes a BESS that would be located within the project footprint. The BESS would encompass a maximum of approximately 3.43 total acres. The BESS, would be installed/constructed on the project site and would have appropriate fire suppression systems built to applicable state and local code requirements. The final design would include appropriate containment features (secondary containment) to prevent the escape of liquids or spills from the BESS site.
15. The BESS would be contained within an outdoor-rated steel enclosure and electrically connected to the inverters. The modular container stacks would be set on a concrete or steel pile foundation and would be approximately 8 feet wide by 72 feet long by 11 feet high. The proposed BESS would be designed, constructed, operated, and maintained in accordance with applicable industry best practices and regulatory requirements, including compliance with the latest National Fire Protection Association (NFPA) fire safety codes and fire rating in conformance with Tulare county standards.
16. The BESS would use one of several commercially available lithium ion (Li ion) technologies, though alternatives may be considered (such as flow batteries). Due to the rapidly changing technology in the battery industry, it may be more efficient, environmentally conscious, and economical, to use a then-current technology.
17. As planned, the BESS would consist of self-contained battery storage modules placed in racks, switchboards, inverters, transformers, controls, and integrated heating, ventilation, and air conditioning (HVAC) units, all enclosed in one or more buildings or in prefabricated metal modular container stacks. Potential hazards associated with BESS include increased potential for electrical shock and chemical release associated with the batteries used. The BESS would have fire suppression systems that would have a fire rating and built to applicable State and local code requirements. Also, implementation of established construction controls and safety procedures would reduce the risk of hazardous materials spills and releases.
18. The proposed battery energy storage system would be designed, constructed, operated and maintained in accordance with applicable industry best practices and regulatory requirements, including fire safety standards.
19. The facility will operate automatically, be remotely monitored, and remain unmanned. Occasional site visits would occur for security, maintenance, and repairs.
20. The solar array and all balance of system equipment will be enclosed in a seven-foot-tall chain link fence in compliance with the National Electric Code. The fence will have at least one vehicle access gate at the boundary of the array, which will always remain locked, except during operations and maintenance activities. A Knox

box will be installed at the entrance gate to provide 24-hour access for emergency responders.

21. No new water infrastructure is proposed in association with the Project and minimal water will be used as needed for construction and maintenance activities such as dust mitigation and panel washing.
22. Sewer and Solid Waste Sewer services are proposed in association with the Project. Temporary sanitary facilities will be placed onsite during construction. Solid waste is anticipated to be produced only during construction, primarily comprised of equipment packaging, and will be disposed of in accordance with County standards offsite.
23. The Board of Supervisors, at their regular meeting of November 30, 2010, adopted by Resolution 2010-0927, a Notice of Intent to Collect Tulare County Public Facility Fees, also known as Development Impact Fees. New Development may be subject to County Development Impact fees.
24. The Board of Supervisors, at their regular meeting of August 31, 2010, adopted by Resolution 2010-0717 developer agreements that include cost recovery, loss of crop production and/or subvention funds, removal of facility and reclamation requirements, and other Tulare County financial incentives for Private Utility Structures located on Agricultural Zoned Lands.
25. The Board of Supervisors, at their regular meeting of February 28, 2012, adopted by Resolution 2012-0187, directed the Resource Management Agency to capture sales tax as part of project approval, environmental clearance, or other discretionary action for large-scale solar facility projects.

C. This Planning Commission, after considering all of the evidence presented, found that the establishment, maintenance, and operation of the use of building or land applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

AND, BE IT FURTHER RESOLVED as follows:

D. This Planning Commission hereby finds said Special Use Permit will not have a significant effect on the environment and determines that the Mitigated Negative Declaration for said Special Use Permit reflects the independent judgment of the county and has been completed in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Environmental Quality Act of 1970.

E. This Planning Commission hereby approves Special Use Permit No. PSP 24-065, subject to the following conditions:

Standard Conditions of Approval:

1. Development shall be in accordance with the plan(s) as submitted by the applicant and/or as modified by the Planning Commission and with the Site Plan Development Standards pertaining to a use of this type adopted by the Planning Commission on February 20, 1970. (Exhibit "A")
2. Regardless of Condition No. 1 above, and in accordance with Section 18 (Minor Modifications-Director's Approval) of the Zoning Ordinance, the Planning Director is authorized to approve minor modifications in the approved plans upon a request by the applicant, or his successors as long as said modifications do not materially affect the determination of the Planning Commission. Such modifications shall be noted on the approved plans and shall be initialed by the Planning Director.
3. All exterior lighting shall be hooded and adjusted so as to deflect direct rays away from public roadways and adjacent properties.
4. The facility shall be maintained and operated in accordance with all State and County health regulations.
5. Any structures built shall conform to the building regulations and the building line setbacks of the Ordinance Code of Tulare County insofar as said regulations and setbacks are applicable to such structures.
6. The conditions set down herein which require construction of improvements shall be complied with before the premises shall be used for the purposes applied for, in order that the safety and general welfare of the persons using said premises, and the traveling public, shall be protected. The Planning Director may grant exceptions to this condition upon request by the applicant.
7. This Special Use Permit shall automatically become null and void two (2) years after the date upon which it is granted by the Planning Commission, unless the applicant, or his/her successor, has actually commenced the use or variance authorized by the permit within said two-year period. The Planning Commission may grant one or more extensions of said two-year time, upon request by the applicant.
8. This Special Use Permit will not be effective until ten (10) days after the date upon which it is granted by the Planning Commission. During the ten-day appeal period, County staff will mail, to the applicant's most recent known address, the following forms to sign - an "Acceptance" of conditions of approval and, if applicable, a Right to Farm Notice. Within ten (10) days of the action taken by the Planning Commission, the applicant shall be required to sign and return all documents related to the Special Use Permit. Upon receipt, Staff shall file all

appropriate documents with the County Recorder. Failure to sign all required documents may cause the application to be considered null and void.

9. All standard conditions and all special conditions of approval of this Special Use Permit must be complied with at all times in order to continue the use or uses allowed. Compliance with such conditions is subject to review at any time. Normally, an initial review of compliance shall be conducted by the Tulare County Planning Commission twelve (12) months after the granting of said permit; however, the Planning Commission may schedule the review sooner under certain circumstances. Additional reviews may be undertaken at the discretion of the Planning Commission.
10. The applicant(s), at their sole cost and expense, shall defend, indemnify and hold harmless the County of Tulare, its agents, legislative body, officers or employees in any legal or administrative action, claim or proceeding concerning approval of Special Use Permit No. PSP 24-065: or, at its election and in the alternative, shall relinquish such approval. The applicant(s) shall assume the defense of the County in any such legal or administrative action, claim or proceeding with legal counsel paid for in the entirety by the applicant(s), but subject to the County's reasonable approvals. The applicant shall also reimburse the County, its agents, its legislative body, officers or employees for any judgments, amounts paid in the settlements court costs and attorney's fees with the County, its agents, legislative body, officers or employees may be required to pay at court as a result of such action, claim or proceeding. The County may, at its sole discretion, participate at its own expense in the defense of any such action, claim or proceeding, but such participation shall not relieve the applicant(s) of their obligations under this condition."

Planning Conditions:

11. The property owner shall sign and return the Right to Farm Notice to the Resource Management Agency in order for it to be recorded with the Resolution. (Exhibit "B")
12. A Compliance Reporting and Monitoring Schedule has been established for this project pursuant to Section 22 of the Tulare County Zoning Ordinance. A fee in the amount of \$130.00 is required to defray the expenses incidental to the compliance reporting and monitoring, must be deposited into a Compliance Reporting and Monitoring Account prior to recordation of the Resolution. (Exhibit "C")
13. Internal parking and circulation shall be designed so that vehicles enter and exit the site by moving forward. There shall be no maneuvering or backing onto a public right-of-way.
14. All drive approaches and durable dustless surfaces shall be installed at the time of initial occupation of the site.

15. All open and non-landscaped portions of the lot shall be maintained in good condition, free from weeds, dust, trash and debris.
16. All food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers and removed at least once a week from the construction/project site.
17. Landscaping shall be installed and maintained on that portion of the project site adjacent to the public right-of-way. The landscaping shall be of an appropriate density and height to shield the project site from public view. The landscaping shall be installed and maintained in the manner described in Ordinance Code Part VII, Chapter 31, Water Efficient Landscaping.
18. The Board of Supervisors, at their regular meeting of August 31, 2010, adopted by Resolution 2010-0717, developer agreements that include cost recovery, loss of crop production and/or subvention funds, removal of facility and reclamation requirements, and other Tulare County financial incentives for Private Utility Structures located on Agricultural Zoned Lands.
19. The applicant shall post a performance bond or similar instrument to ensure the completion of site reclamation activities in accordance with the Developer Agreement and Reclamation Plan.
20. This Special Use Permit is conditioned upon and will not become effective until the County and Applicant/Owner execute the Developer Agreement and Reclamation Plan which is attached hereto and incorporated herein by reference (Exhibit "D"), as may be amended by the County Board of Supervisors. Developer Agreement includes cost recovery, loss of subvention funds and reclamation plan that includes bonding that is adjusted to match the CPI index for California.
21. This Special Use Permit is conditioned upon and will not be effective until the developer and the County enter into an agreement, which is attached hereto and incorporated herein by reference (Exhibit "E"), governing payment of the following:
 - a. Sales and use taxes: The developer shall undertake specified actions in contracting for construction of the project so as to allocate sales and use taxes paid in connection with project construction to the County to the extent provided by law. The developer shall include language in its construction contracts identifying the jobsite as within unincorporated Tulare County and requiring its construction contractor and sub-contractors to allocate sales and use taxes to the County, to the extent provided by law, in its Board of Equalization filings and permits.

- b. Property taxes: To ensure that property taxes continue to accrue to the County, the developer shall agree not to transfer the project to a nontaxable public entity (other than the County), or other entity that is exempt from payment of property taxes, unless that entity agrees to pay a fee to the County on an on-going basis equivalent to the amount of real property taxes it would be required to pay if it were not a nontaxable or tax exempt entity.
- 22. Prior to the issuance of a building permit, the applicant shall submit a Soil Reclamation Plan for review and approval by planning staff. The plan shall contain an analysis of pre-project baseline soil conditions, and shall contain specific measures to restore the soil to its pre-project condition, including removal of all fixtures, equipment, non-agricultural roads, and restoration of compacted soil. Reclamation shall be completed within six months of the expiration of the use permit.
 - 23. This Special Use Permit No. PSP 24-065 will automatically expire and become null and void thirty-five (35) years from the date of approval. The Special Use Permit may be extended for additional periods of time if an application for extension of time (by letter) is filed with the Planning Director of the Resource Management Agency prior to the permit's expiration date.
 - 24. At the time of reclamation and or decommissioning of the solar electrical generation facility, the applicant or owner will be required to recycle the solar photovoltaic panels with a certified solar panel recycler. The Reclamation Plan shall include those items listed in Exhibit "D" to the Developer Agreement.
 - 25. Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, pipeline corridors, etc., shall be re-contoured, if necessary, and re-vegetated to promote restoration of the area to pre-project conditions. An area subject to "temporary" disturbance means any area that is disturbed during the project, but that after project completion will not be subject to further disturbance and has the potential to be re-vegetated. Appropriate methods and plant species used to re-vegetate such areas shall be determined on a site-specific basis in consultation with the United States Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG), and re-vegetation experts.
 - 26. Developer shall remove all Project furniture, equipment and personal property regardless of whether or not they are firmly affixed to facilities on the Land.
 - 27. Developer shall complete the removal of all underground Project improvements, including concrete foundations and pilings to three feet (3'-0") below grade.

28. Developer shall remove all at grade and above grade Project structures, buildings and improvements of any kind whatsoever, placed or maintained on the Land, whether placed thereon or maintained by Developer or others.
29. Hazardous materials contamination of the Land by Developer shall be remediated in compliance in all material respects with all applicable environmental laws.
30. The Project site shall be restored to a level graded condition.
31. Developer shall abandon in place (in the same condition they were in immediately prior to abandonment) all wells, pumps, equipment, electrical leads and improvements related to the extraction of ground water from the Land.
32. Exclusions from Project improvements requiring removal from the Land:
 - a. Any underground Project improvements or any improvements constructed by or on behalf of public utility companies within easements or rights-of-way granted to such public utility companies.
 - b. Any Project improvement or facility that by mutual agreement between Developer and the County, provided they will not interfere with the potential resumed farming operations on the Land.
33. The Plan must comply with State, Federal and local requirements at the time Reclamation of the Property site occurs.

Environmental Health Services Conditions of Approval:

34. If the site handles or stores quantities of hazardous materials in excess of 55 gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of a compressed gas, or any amount of a hazardous waste, then the site(s) will be required to submit a Hazardous Materials Business Plan to TCEHSD. The facility operator(s) shall immediately contact TCEHSD at (559) 624-7400 if the site ever meets these threshold quantities.
35. Equipment storage areas shall be properly managed to prevent nuisance of dust, odors, vector harborage and breeding.

Fire Department Conditions:

36. Before permit will be granted, a report is required on drift smoke plume effect on _____ and surrounding community, provided by a licensed professional or qualified person, if Tulare County Fire deems necessary or requested by neighbor.
37. All structures shall meet current adopted California Fire and Building Codes.

38. Posted address minimum 4"x3"x ½" line width permanent numbers on sign-age visible from the roadway.
39. Emergency Contact information with address and emergency contact phone number on sign-age at the field entry gate and must be visible from roadway.
40. Commercial solar must have address.
41. If the property is to be fenced, the primary access gate shall be located directly off a public roadway.
42. Unfenced yards must show main access on the site plans off a public roadway.
43. All-weather (2" after compact- crushed rock, road base, or DG) 20 feet Fire Dept. access road, with a maintained 13 feet 6 inches vertical clearance.
44. Fire apparatus access roads/lanes shall be identified on approved plans.
45. Install fire extinguisher, 2A-10BC mounted at 4' at main electrical panels and as required by the Fire Code and Ca. Title 19.
46. Fire Department requires a Knox Box or Knox padlock to be installed at an approved location to permit entry to the site if behind locked fence or gate.
47. New gates shall be at least 20 foot wide, installed 30' back from the public way and open inward.
48. All combustible vegetation shall be removed from the site (area being worked) or cut to a maximum height of 3 inches under the solar array.
49. Remove all dead and dying vegetation within 30 feet of all structures (SRA, 100 feet), plus property lines, and 10' on each side of the driveway. Vegetation must be disposed of prior to the start of construction.
50. A Tulare County Fire Department approved, on-going annual weed abatement plan to prevent the accumulation of combustible vegetation through-out the field that would create a fire hazard must be submitted before final approval of this permit.
51. Access roads of an all-weather surface shall be provided so that no portions of the photovoltaic panels are further than 155 feet from a fire apparatus access road.
52. 20-foot fire access roads shall be constructed at intervals of no greater than 310 feet.

53. Applicant shall be responsible for training fire personnel of facility operations, hazards, and emergency procedures for shutting down the operation.
54. If permanent or temporary buildings are proposed, National Fire Protection Agency (NFPA) 1142 standards for rural water supplies shall be required. (min. 2000-gallon water tank) This shall include portable buildings during construction.
55. SOLAR: Follow all rules and regulation in document “TCFD Ground mount solar, 10-22-2024.
56. BESS: Follow 2022 CFC Section 322, Storage of Lithium-Ion, and Lithium Metal Batteries.
57. BESS: Follow 2022 CFC Section 1207, Electrical Energy Storage Systems.
58. BESS: Follow all rules and regulations in document “TCFD Energy Storage Systems Permit Requirements”, 4-3-2025.
59. BESS: Fire water storage tank required for energy storage systems (BESS), minimum 24,000 gallons based on Chapter 12, Sec 1207 of the 2022 CFC, NFPA 855, and NFPA 1142 standards. Call Tulare County fire as soon as possible for proper placement of the tank at 559-802-9807.
60. Fire water tank placement and FDC connection shall be within 8 feet of roadway, at least 300 feet from the nearest BESS unit, and at least 30 feet from all overhead power lines.
61. All Water Tanks over 5,000 gallons need to be on an approved foundation or on a foundation that is recommend by the tank manufacturer. A set of foundation plans need to be provided and approved by the building department.
62. BESS: Sprinkler based fire control and suppression systems shall be installed in accordance with NFPA 855.
63. BESS: Comply with Chapter 12, Sec 1207 of the CFC 2022 ed. and NFPA 855 standards for energy storage systems.
64. Fire Final.

Building Department Conditions of Approval:

65. The applicant shall submit three (3) sets of engineered plans and two (2) sets of calculations at building permit stage.

Solid Waste Conditions of Approval:

66. Applicant shall dispose of all e-waste utilizing the requirements currently adopted at

the time of decommissioning.

Roads and Engineering Conditions:

67. A drive approach shall be constructed at each proposed point of access to Avenue 184, Avenue 190, Road 72 and Road 80 on the subject site. The drive approach shall have a maximum width of 35 feet at the right of way line and shall be constructed in accordance with the Tulare County Improvement Standards. A wider drive approach may be constructed if geometric calculations justifying the wider drive approach are submitted to and approved by the Tulare County RMA – Engineering Branch.
68. All on-site parking areas and driveways shall be surfaced for all-weather conditions and be continually maintained so that dust and mud do not create conditions detrimental to the surrounding roadways.
69. The applicant or the applicant’s contractor shall obtain the necessary encroachment permits from the Tulare County Resource Management Agency before starting any construction within the right of way of a County maintained road. The applicant may contact the Resource Management Agency – Encroachment Permit Section at 624-7000 for information on the requirements for encroachment permits in order to avoid unexpected delays. Improvements that typically require encroachment permits are drive approaches, curb and gutter, sidewalk, paveout and utilities.
70. The applicant shall make all necessary arrangements for the relocation of all overhead and underground public utility facilities that interfere with any improvements required to be constructed within the right of way of a county road. The applicant shall make necessary arrangements with the serving public utility company for the cost of relocating such facilities as no relocation costs will be borne by the County. The relocation of such facilities shall be completed before any encroachment permits will be issued for the construction of any improvements within the right of way of a county road.
71. The improvement requirement as identified in Condition No. 1 above is deferred until such time as building permits and certain other permits and certificates are issued as provided in Ordinance Code Section 7-15-1940 et seq.

Environmental Planning Conditions:

Air Quality

72. AQ-1: Engine Standards for Off-Road Equipment. In order to reduce the impact of PM10 off-road equipment exhaust emissions during construction-related activities, applicant shall ensure that construction contracts stipulate that all off-road diesel-powered equipment used will be equipped with USEPA Tier 4 or cleaner engines, except for specialized equipment in which an USEPA Tier 4 engine is not available.

In lieu of Tier 4 engines, project equipment can incorporate retrofits such that emissions reductions achieved equal to that of the Tier 4 engines at a minimum. The construction contractor shall submit a detailed list of the equipment fleet that demonstrates achievement of this mitigation measure to Tulare County Resource Management Agency Planning Branch for approval prior to receiving Notice to Proceed.

Biological Resources

73. BIO-1: (Pre-construction Survey) A qualified biologist/botanist will conduct preconstruction surveys for special status plant species in accordance with the California Department of Fish and Wildlife (CDFW) Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (2009). This protocol includes identification of reference populations to facilitate the likelihood of field investigation occurring during the appropriate floristic period. Surveys should be timed to coincide with flowering periods for species that could occur (March-May). In the absence of protocol-level surveys being performed, additional surveys may be necessary.

If special status plant species are not identified during preconstruction surveys, no further action is required.

If special status plant species are detected during preconstruction surveys, plant population shall be avoided with the establishment of a minimum 50-foot no disturbance buffer from the outer edge of the plant population. If buffers cannot be maintained, the Sacramento Field Office of the USFWS and the Fresno Field Office of CDFW shall be contacted immediately to identify the appropriate minimization actions to be taken as appropriate for the species identified and to determine permitting needs.

74. BIO-2: (Pre-construction Survey) A qualified biologist will conduct pre-construction surveys during the appropriate periods for special status animal species in accordance with CDFW guidance and recommendations. In the absence of protocol-level surveys being performed, additional surveys may be necessary. If special status animal species are not identified during pre-construction surveys, no further action is required. If special status animal species are detected during pre-construction surveys, the Sacramento Field Office of the USFWS and the Fresno Field Office of CDFW shall be contacted immediately to identify the appropriate avoidance and minimization actions to be taken as applicable for the identified species and to determine permitting needs.
75. BIO-3: (Employee Education Program) Prior to the start of construction, the applicant shall retain a qualified biologist/botanist to conduct a tailgate meeting to train all construction staff that will be involved with the project on the special status species that occur, or may occur, on the project site. This training will include a description of the species and its habitat needs; a report of the occurrence of the

species in the project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of the measures being taken to reduce impacts to the species during project construction and implementation.

76. BIO-4: (Avoidance) In order to avoid impacts to nesting raptors and migratory birds, individual Projects within the Project will be constructed, where possible, outside the nesting season (between September 1st and January 31st).
77. BIO-5: (Pre-construction Survey) If Project activities must occur during the nesting season (February 1-August 31), the proponent is responsible for ensuring that implementation does not violate the Migratory Bird Treaty Act or relevant Fish and Game Code. A qualified biologist shall conduct pre-construction surveys for active raptor and migratory bird nests within 10 days of the onset of these activities. The survey will include the proposed work area(s) and surrounding lands within 500 feet for all nesting raptors and migratory birds; with the exception of Swainson's hawk. The Swainson's hawk survey will utilize the Swainson's Hawk Technical Advisory Committee Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (2000) methodology which will extend to ½-mile outside of work area boundaries. If no nesting pairs are found within the survey area, no further mitigation is required.
78. BIO-6: (Pre-construction Survey) A qualified biologist will conduct pre-construction surveys in accordance with Swainson's Hawk Technical Advisory Committee Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (2000) which employs the following:

Survey Period	Survey Dates	Survey Time	Number of Surveys Needed
I	January – March 20	All day 1	
II	March 20 – April 5	Sunrise – 1000; 1600 to Sunset	3
III	April 5 – April 20	Sunrise – 1200; 1630 – Sunset	3
IV	April 21 – June 10	Monitoring sites only	Not recommended
V	June 10 – July 30	Sunrise – 1200; 1600 – Sunset	3

If project activities must occur during the nesting season (February 1-August 31), the project proponent and/or their contractor is responsible for ensuring that implementation does not violate the Migratory Bird Treaty Act or relevant Fish and Game Code, and a qualified biologist will conduct pre-construction surveys for active raptor and migratory bird nests within 10 days of the onset of these activities. The survey will include the proposed work area(s) and surrounding lands within 500 feet for all nesting raptors and migratory birds save Swainson's hawk; the Swainson's hawk survey will extend to ½ mile outside of work area boundaries. If no nesting pairs are found within the survey area, no further mitigation is required.

79. BIO-7: (Buffers) Should any active nests be discovered near proposed work areas, a qualified biologist will determine appropriate construction setback distances and a

behavioral baseline of all identified nests based on applicable CDFW guidelines and/or the biology of the affected species. Within these buffers, the biologist will continue monitoring to detect behavioral changes. If adverse behavioral changes occur, the activity causing the changes will cease and CDFW will be consulted to determine if avoidance and minimization measures need to be modified to adequately protect the impacted birds. Construction-free buffers will be identified on the ground with flagging, fencing, or by other easily visible means, and will be maintained until the biologist has determined that the young have fledged (i.e., when a bird's feathers and wing muscles are sufficiently developed for flight). Unless a variance is approved by CDFW, the buffer shall not be less than 250 feet around active nests of non-listed bird species and not less than 500 feet around active nests of non-listed raptor species until the birds have fledged. Unless a variance is approved by CDFW, a ½ mile distance shall be used for SWHA, until the birds have "fledged".

80. BIO-8: (Pre-construction Survey) A pre-construction survey for burrowing owls will be conducted by a qualified biologist within 30 days of the onset of project-related activities involving ground disturbance or heavy equipment use. The survey area will include all suitable habitat on and within 500 feet of project impact areas, where accessible.
81. BIO-9: (Avoidance of Active Nests.) If pre-construction surveys and subsequent project activities are undertaken during the breeding season (February 1-August 31) and active nest burrows are located within or near project impact areas, then a 250-foot construction setback will be established around active owl nests, or alternate avoidance measures implemented in consultation with CDFW. The buffer areas will be enclosed with temporary fencing to prevent construction equipment and workers from entering the setback area. Buffers will remain in place for the duration of the breeding season, unless otherwise arranged with CDFW. After the breeding season (i.e., once all young have left the nest), passive relocation of any remaining owls may take place as described below.
82. BIO-10: (Passive Relocation of Resident Owls). During the non-breeding season (September 1-January 31), resident owls occupying burrows in project impact areas may be passively relocated to alternative habitat in accordance with a relocation plan prepared by a qualified biologist. Passive relocation may include one or more of the following elements: 1) establishing a minimum 50 foot buffer around all active burrowing owl burrows, 2) removing all suitable burrows outside the 50 foot buffer and up to 160 feet outside of the impact areas as necessary, 3) installing one-way doors on all potential owl burrows within the 50 foot buffer, 4) leaving one-way doors in place for 48 hours to ensure owls have vacated the burrows, and 5) removing the doors and excavating the remaining burrows within the 50 foot buffer.

83. BIO-11: (Pre-construction Surveys) If construction activities must occur between February 1 and September 15, then a qualified biologist will conduct pre-construction surveys to determine the presence/absence of tricolored blackbirds on and, to the extent feasible, within 500 feet of the project site, no more than 10 days prior to the start of construction.

Should any tricolored blackbirds be discovered within the survey area, then the observation will be submitted to the CNDDDB, and the local CDFW office (Fresno) will be contacted. Additional measures, if any, will be identified in consultation with the CDFW based on local conditions.

84. BIO-12: (Pre-construction Survey) Pre-construction surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance, construction activities, and/or any project activity likely to impact the San Joaquin kit fox. These surveys will be conducted in accordance with the USFWS Standard Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (2011). Specifically the survey will include the project site and a minimum of a 200-foot area outside of all project impact areas. The primary objective is to identify kit fox habitat features (e.g. potential dens and refugia) on the project site and evaluate their use by kit fox through the use of remote monitoring techniques such as motion-triggered cameras and tracking medium. If potential dens are not identified, no further action is required.
85. BIO-13: (Avoidance) Should an active or potential kit fox den be detected within or immediately adjacent to the area of work during pre-construction surveys, the den shall not be disturbed or destroyed. In accordance with the USFWS, Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (2011), a minimum 50-foot no-disturbance buffer area shall be established around potential and man-made (atypical) dens and a minimum 100-foot no-disturbance buffer area shall be established around known den sites. The Sacramento Field Office of the USFWS and Fresno Field Office of the CDFW shall be contacted immediately by phone and in writing to determine the best course of action, if required, and to initiate the take authorization/permit process.
86. BIO-14: (Minimization) Construction activities shall be carried out in a manner that minimizes disturbance to kit fox. Minimization measures include, but are not limited to: restriction of project-related vehicle traffic to established roads, construction areas, and other designated areas; inspection and covering of structures (e.g., pipes), as well as installation of escape structures, to prevent the inadvertent entrapment of kit foxes; restriction of rodenticide and herbicide use; and proper disposal of food items and trash.
87. BIO-15: (Mortality Reporting) The Sacramento Field Office of the USFWS and the Fresno Field Office of CDFW will be contacted immediately by phone and notified

in writing within three working days in case of the accidental death or injury of a San Joaquin kit fox during project-related activities. Notification must include the date, time, location of the incident or of the finding of a dead or injured animal, and any other pertinent information.

Cultural Resources

88. CUL-1: (Designated Cultural Resources Specialist) The Applicant shall retain a designated CRS who will be available to carry out mitigation measures related to cultural resources for the project. The CRS will meet or exceed the Secretary of the Interior's Professional Qualifications Standards for Archaeology (National Park Service 1983). The CRS will be qualified in site detection, evaluation of deposit significance, consultation with regulatory agencies, and plan site evaluation and mitigation activities.
89. CUL-2: (Cultural Resources Monitoring Plan) Prior to the start of permitted ground-disturbing activities, a Cultural Resources Monitoring Plan should be prepared by the CRS. The monitoring plan should include a description of the monitoring methodology, including when monitoring will be required, the authority of the monitor to halt construction should a discovery be made, contact information should a discovery be made, definition of site types typically present within the area, define the types of resources that would require that work be halted or redirected, provide a research design should a discovery be made, provide the protocols for unanticipated discoveries (e.g., who to call and next steps for documentation), provide guidance in the event an Environmentally Sensitive Area (ESA) must be designated, review and approval protocols (e.g., define review periods for agencies and interested communities), and dispute resolution.
90. CUL-3: (Cultural Resources Sensitivity Training) Prior to the start of ground disturbance, the construction crew should participate in on-site training on the proper procedures to follow if cultural resources are uncovered during the project excavations, site preparation, or other related activities. This training should include a comprehensive discussion of applicable laws and penalties under the law, samples or visuals of artifacts that might be found in the vicinity of the project site, a discussion of what such artifacts may look like when partially buried or wholly buried and then freshly exposed, a discussion of what prehistoric and historic-period archaeological deposits look like at the surface and when exposed during construction, and instruction that employees are to halt work in the vicinity of a discovery (within 50 feet). This information should be provided in an informational brochure that outlines reporting procedures in the event of a discovery and should be provided to all individuals working on-site.
91. CUL-4: (Cultural Resources Sensitivity Training) Prior to the start of ground disturbance, the construction crew should participate in on-site training on the proper procedures to follow if cultural resources are uncovered during the project excavations, site preparation, or other related activities. This training should include

a comprehensive discussion of applicable laws and penalties under the law, samples or visuals of artifacts that might be found in the vicinity of the project site, a discussion of what such artifacts may look like when partially buried or wholly buried and then freshly exposed, a discussion of what prehistoric and historic-period archaeological deposits look like at the surface and when exposed during construction, and instruction that employees are to halt work in the vicinity of a discovery (within 50 feet). This information should be provided in an informational brochure that outlines reporting procedures in the event of a discovery and should be provided to all individuals working on-site.

92. CUL-5: (Unanticipated Discovery of Cultural Resources) In the event archaeological resources are unexpectedly encountered during ground-disturbing activities, work within 50 feet of the find shall halt and the project CRS be contacted immediately to evaluate the resource. If the resource is determined by the CRS to be prehistoric, then a Native American representative shall also be contacted to participate in the evaluation of the resource. If the CRS and/or Native American representative determines it to be appropriate, archaeological testing for CRHR eligibility should be completed. If the resource proves to be eligible for the CRHR and significant impacts to the resource cannot be avoided via project redesign, the CRS shall prepare a data recovery plan tailored to the physical nature and characteristics of the resource, per the requirements of the California Code of Regulations Section 15126.4(b)(3)(C). The data recovery plan shall identify data recovery excavation methods, measurable objectives, and data thresholds to reduce any significant impacts to cultural resources related to the resource. Pursuant to the data recovery plan, the CRS and Native American representative, as appropriate, should recover and document the scientifically consequential information that justifies the resource's significance. The lead agency shall review and approve the treatment plan and archaeological testing as appropriate, and the resulting documentation shall be submitted to the regional repository of the CHRIS, per California Code of Regulations Section 15126.4(b)(3)(C).
93. CUL-6: (Compliance with HSC § 7050.5) No human remains are known to be present within the project site. However, the discovery of human remains is always a possibility during ground-disturbing activities. If human remains are found, the State of California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to PRC Section 5097.98. In the event of an unanticipated discovery of human remains, the County Coroner must be notified immediately. If the human remains are determined to be of Native American origin, the Coroner will notify the NAHC, which will determine and notify a MLD. The MLD has 48 hours from being granted site access to make recommendations for the disposition of the remains. If the MLD does not make recommendations within 48 hours, the landowner shall reinter the remains in an area of the property secure from subsequent disturbance.

Hydrology and Water Quality

94. HYD-1: The location of a structure within the special flood hazard area shall require compliance with the National Flood Insurance Program under FEMA and the special provisions of the Tulare County Flood Damage Prevention Ordinance.

Noise

95. NOI-1: Internal combustion engines shall be equipped with a muffler of a type recommended by the manufacturer.
96. NOI-2: Construction activities, excluding activities required to occur without interruption or activities that would pose a significant safety risk to workers or citizens, shall be limited to between the daytime hours of 7:00 a.m. and 7:00 p.m.
97. NOI-3: Portable/stationary equipment (e.g., generators, compressors) shall be located at the furthest distance from the nearest residential dwelling.
98. NOI-4: As directed by the County resident engineer, the contractor shall implement appropriate additional noise abatement measures including, but not limited to, siting the location of stationary construction equipment away from sensitive noise receptors to the greatest extent feasible, turning off idling equipment after no more than five minutes of inactivity, and rescheduling construction activity to avoid noise-sensitive days or times.
99. NOI-5: Use alternative pile installation techniques (e.g., drilled piles) to the extent possible.

The foregoing resolution was adopted upon motion of Commissioner ~, seconded by Commissioner ~, at a regular meeting of the Planning Commission on April 23, 2025, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

TULARE COUNTY PLANNING COMMISSION

Michael Washam, Secretary

Exhibit "A"

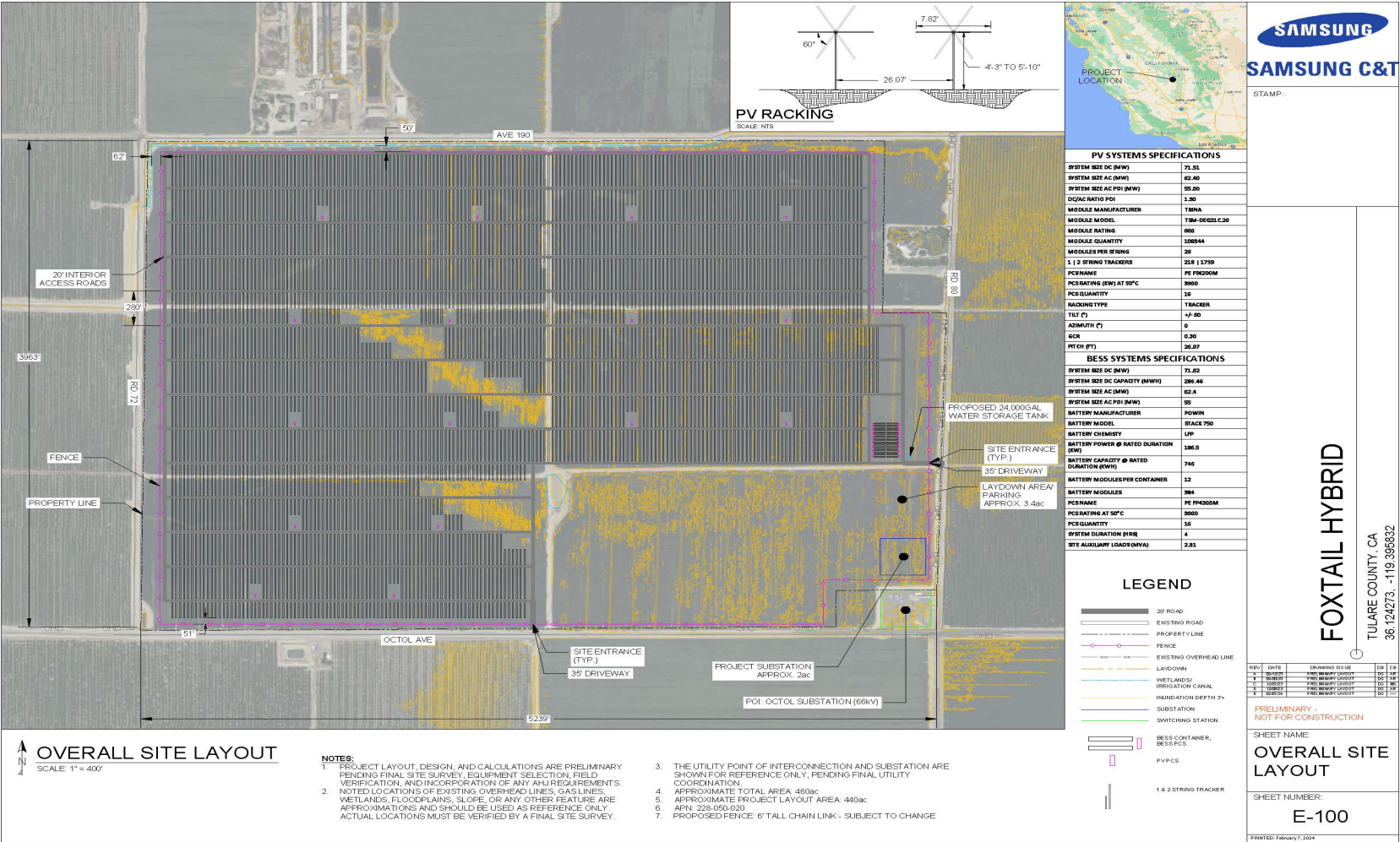


Figure 5 Project Site Plan

Exhibit "B"

RIGHT TO FARM NOTICE

RE: Use Permit No. PSP 24-065

or

Parcel Map No. _____

or

Subdivision Map No. _____

or

Mining and Reclamation Plan No. _____

In accordance with Section 7-29-1070(a) of the Tulare County Ordinance Code; and as a condition of approval of the above-referenced use permit, parcel map, subdivision map or mining and reclamation plan, the undersigned hereby acknowledges that:

It is the declared policy of Tulare County to conserve, enhance and encourage agricultural operations within the County. Residents of property on or near agricultural land should be prepared to accept the inconveniences and discomfort associated with agricultural operations, including, but not necessarily limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Consistent with this policy, California Civil Code Section 3482.5 provides that no agricultural operation, as defined and limited by that section, conducted and maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than three years if it was not a nuisance at the time it began.

Dated: _____

(Signature)

(Print Name)

Dated: _____

(Signature)

(Print Name)

EXHIBIT “C”

COMPLIANCE REPORTING AND MONITORING **SCHEDULE AND FEE NOTICE**

CASE NO. PSP 24-065

Section 22 of the Tulare County Ordinance mandates a program to monitor and ensure compliance with conditions imposed as part of approval of this project. It also mandates that fees be imposed to defray the expense incidental to any monitoring and compliance reviews.

Compliance review fees are based on an hourly rate as adopted by the Tulare County Board of Supervisors. The minimum deposit is based on the estimated number of inspections for the compliance review process.

A Compliance Reporting and Monitoring Schedule was established and imposed as a condition of your use permit. **The first compliance review of your project is schedule for 12 months from the date of approval.** If the use is to commence prior to the first scheduled inspection, you must call (559) 624-7000 to reschedule the first inspection.

Prior to recording the Resolution/Decision and Acceptance Form, a deposit of \$ 130.00 must be made to the Compliance Reporting and Monitoring Account. This deposit can be made at the Tulare County Resource Management Agency offices located at 5961 S. Mooney Blvd., Visalia. The deposit is based on the estimated number of compliance inspections required to carry out the compliance reporting and monitoring schedule. Additional deposits may be required if the account is depleted. If the use has not commenced and an extension of time is needed, an additional deposit is required with the extension of time request.

Upon completion of the project and/or termination of the compliance reporting and monitoring schedule, the deposit account will be reviewed to determine if excess fees exist. A written request is required for a refund of excess fees remaining in the account. These fees are also subject to waiver or refund under Sections 130 and 135 of the Tulare County Ordinance Code.

If you have any questions regarding this notice, please contact Building Inspection/Code Compliance staff at (559) 624-7000.

**DEVELOPER AGREEMENT AND RECLAMATION PLAN FOR THE SOLAR
PHOTOVOLTAIC ELECTRIC GENERATING FACILITY**

I. INTRODUCTION

THIS AGREEMENT is entered into as of TBD, 2025, between the COUNTY OF TULARE, referred to as COUNTY, and Foxtail Solar, LLC, referred to as DEVELOPER. As of the date of this Agreement the owner(s) of the Property are Joe V. Cardoza III, 18839 Road 80, Tulare, CA 93274 (Owner).

II. RECITALS

A. Whereas, DEVELOPER has been granted Special Use Permit PSP No. 24-065 on March 26, 2025, (the "Special Use Permit") pursuant to Planning Commission Resolution No. ***** for property located at 18839 Road 80, Tulare, CA 93274, on the west side of Road 80, approximately 6.6 miles southeast of the intersection of State Route 99 and State Route 137. It lines within Section 5, Township 21 South, Range 24 East, MDB&M entirely within APN 228-050-020.

B. Whereas, Planning Commission Resolution No. ***** requires DEVELOPER to enter into a developer agreement and reclamation plan regarding the development of solar photovoltaic (PV) electric generating facilities and Battery Energy Storage System (BESS) on the Property (the "Project") to secure the Special Use Permit and to require payment of monetary compensation to COUNTY; and

C. Whereas, the parties intend by this Agreement to memorialize the terms and conditions to which DEVELOPER (including any successors and assigns) shall be bound in connection with performance of said Special Use Permit, this Agreement (particularly the monetary compensation provisions), and the Reclamation Plan defined below in paragraph 10 and Exhibit "B."

ACCORDINGLY, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

III. SPECIFIC TERMS

1. TERM: This Agreement shall become effective as of TBD, 2025, and shall be coterminous with and incorporated into the Special Use Permit, such that this Agreement shall expire pursuant to the thirty five (35) year term set forth in Special Use Permit PSP 24-065, or upon the removal of solar power facilities from the Property, or unless otherwise modified as agreed to by the parties hereto.

2. PROPERTY LOCATION. This Agreement pertains solely to the Property located at 18839 Road 80, Tulare, CA 93274, on the west side of Road 80, approximately 6.6 miles southeast of the intersection of State Route 99 and State Route 137. It lines within Section 5, Township 21

South, Range 24 East, MDB&M entirely within APN 228-050-020. The Project would be constructed on approximately 450 acres of 475.50 acre parcel.

3. CONSIDERATION: DEVELOPER hereby agrees to the requirements within this Agreement in consideration of COUNTY'S approval of said Special Use Permit.

4. COMPLIANCE WITH PERMIT: DEVELOPER shall comply with the Special Use Permit's terms and conditions granted by Resolution No. ***** for PSP No. 24-065, dated March 26, 2025, as amended, and mitigation measures set forth in Resolution No. *****, dated TBD, 2025, as amended, (Resolution attached hereto as Exhibit "A"). If DEVELOPER does not comply with the terms and conditions of said permit and this Agreement, then the default provisions in paragraph 19 shall be followed.

5. ANNUAL PAYMENT TO COUNTY: To support cost recovery for public service impacts, DEVELOPER shall pay to COUNTY upon commencement of the Project an annual payment of one thousand dollars and no cents (\$4000.00) per megawatt of AC capacity as documented by the interconnection agreement between the Developer and Southern California Edison (the "General Fund Payment") for the Term. Since the attached Special Use Permit authorizes twenty (20) megawatts of AC capacity as documented by the interconnection agreement between the Developer and Southern California Edison, this Agreement requires that DEVELOPER shall pay to COUNTY on an annual basis a General Fund Payment in the sum of four hundred forty thousand dollars and no cents (\$440,000.00) per year for the duration of the permit starting upon the first full month of operation of the solar power facilities (Commercial Operation Date). After any partial year payment following the Commercial Operation Date, the General Fund Payment shall be made within thirty (30) days after the close of DEVELOPER'S tax year, whether annual or fiscal. The monies paid by DEVELOPER pursuant to this paragraph 5 shall constitute the total and exclusive amount owed by DEVELOPER to COUNTY for any and all impacts incurred by the COUNTY as a result of the Project. The General Fund Payment shall be offset by any personal property taxes actually paid by DEVELOPER as a result of capital improvements related to the Project. This offset does not apply to taxes assessed on the Property. DEVELOPER shall not be owed a refund by COUNTY should the General Fund Payment be less than the amount of personal property taxes actually paid by DEVELOPER.

6. PAYMENT OF DEVELOPMENT IMPACT FEES: DEVELOPER shall be subject to development impact fees in effect at the time of execution of this Agreement. The parties hereto acknowledge that no such fees exist or are enforceable against DEVELOPER as of the date of this Agreement with regard to PSP No. 24-065.

7. COMPLIANCE AND MONITORING FEES AND COSTS: DEVELOPER shall pay to COUNTY fees in accordance with the Special Use Permit Condition No. 13 and Exhibit "C" to the Special Use Permit.

8. PAYMENT OF TAXES: To the extent required by law, DEVELOPER shall pay any and all sales and use taxes on taxable transactions within or outside Tulare County, and all property taxes on assessable real and personal property applicable to the Special Use Permit, at the legal rate of taxation.

9. RECLAMATION PLAN: (a) Upon expiration or earlier termination of the Special Use Permit, DEVELOPER shall comply with the Reclamation Plan attached in Exhibit "B" (the "Reclamation Plan"). The Reclamation Plan shall automatically become effective and enforceable by COUNTY immediately upon expiration or earlier termination of the Special Use Permit in accordance with the terms and conditions of this Agreement, and shall remain enforceable by COUNTY until completion of all of DEVELOPER'S duties and obligations thereunder to the reasonable satisfaction of COUNTY.

(b) Except for development of the Project on land owned by a public agency, DEVELOPER shall secure the performance of its duties and obligations under the Reclamation Plan by furnishing COUNTY with cash, letter of credit, or bond that complies with Section 66499 *et seq.* of the California Government Code. The amount of such security shall be fixed by COUNTY pursuant to the Reclamation Plan, and, pursuant to Special Uses Permit Condition No. 24, and, such amount shall be adjusted in accordance with the Consumer Price Index (CPI) of California. DEVELOPER hereby acknowledges and agrees that DEVELOPER'S failure to satisfy fully its duties and obligations under the Reclamation Plan, to the reasonable satisfaction of COUNTY, shall result in a forfeiture of the security.

(c) Pursuant to the conditions of the Special Use Permit, the parties hereto agree that DEVELOPER covenants to prosecute and perform fully its duties and obligations under the Reclamation Plan.

10. ABATEMENT OF NUISANCE: COUNTY may abate any public nuisance related to DEVELOPER'S use of the Property and will require DEVELOPER to reimburse COUNTY for the costs to abate said nuisance.

11. RIGHT TO FARM ORDINANCE: DEVELOPER shall adhere to the Tulare County Right to Farm Ordinance and execute the Right to Farm Waiver as required by the Tulare County Resource Management Agency.

12. ASSIGNMENT OR TRANSFER OF AGREEMENT: Except for Permitted Assignees (defined below), DEVELOPER shall not assign or transfer its rights or delegate its duties under this Agreement, whether voluntarily, by operation of law or otherwise, without first obtaining the written consent of COUNTY, which consent shall not be unreasonably withheld, conditioned or delayed; and any attempt to assign or transfer this Agreement without such consent shall be void. In evaluating whether consent shall be given, COUNTY shall consider, without limitation, the willingness to perform (including the monetary and reclamation provisions of this Agreement) and creditworthiness of the DEVELOPER'S successors and assigns. Permitted Assignees shall mean the following: (i) any affiliate of DEVELOPER; (ii) any lender or investor that provides financing for the Project; or (iii) an entity with a net worth of not less than five million dollars (\$5,000,000.00).

IV. GENERAL TERMS

13. NON-EMPLOYEE STATUS: (a) Nothing in this Agreement shall be construed to

constitute the DEVELOPER or any of its agents, employees or officers as an agent, employee or officer of COUNTY.

(b) DEVELOPER agrees to advise everyone it assigns or hires to perform any duty under this Agreement that they are not employees of COUNTY. Subject to any performance criteria contained in this Agreement, DEVELOPER shall be solely responsible for determining the means and methods of performing the specified requirements and COUNTY shall have no right to control or exercise any supervision over DEVELOPER as to how the services will be performed. As DEVELOPER is not COUNTY'S employee, DEVELOPER shall be responsible for paying all required state and federal taxes. In particular, COUNTY will not:

1. Withhold FICA (Social Security) from DEVELOPER'S payments.
2. Make state or federal unemployment insurance contributions on DEVELOPER'S behalf.
3. Withhold state or federal income tax from payments to DEVELOPER.
4. Make disability insurance contributions on behalf of DEVELOPER.
5. Obtain unemployment compensation insurance on behalf of DEVELOPER.

(c) COUNTY shall have the right to monitor and evaluate the performance of DEVELOPER to assure compliance with this Agreement.

14. COMPLIANCE WITH LAW: DEVELOPER shall act pursuant to this Agreement in accordance with applicable federal, state, and local laws, regulations and directives. With respect to DEVELOPER'S employees, DEVELOPER shall comply with all laws and regulations pertaining to wages and hours, state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.

15. GOVERNING LAW: This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this contract is made in and shall be performed in Tulare County California.

16. CONFLICT OF INTEREST: (a) DEVELOPER agrees to, at all times during the performance of this Agreement, comply with the law of the State of California regarding conflicts of interests and appearance of conflicts of interests, including, but not limited to Government Code Section 1090 *et seq.*, and the Political Reform Act, Government Code Section 81000 *et seq.* and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The statutes, regulations and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee from making any decision on behalf of COUNTY in which such officer, employee or consultant/contractor has a direct or indirect financial interest. A violation can occur if the public officer, employee or consultant/contractor participates in or influences any COUNTY decision which has the potential to confer any pecuniary benefit on DEVELOPER or any business firm in which DEVELOPER

has an interest, with certain narrow exceptions.

(b) DEVELOPER agrees that if any facts come to its attention raising any questions as to the applicability of conflicts of interest laws, DEVELOPER will immediately inform COUNTY'S designated representative and provide all information needed for resolution of this question.

17. INDEMNIFICATION: DEVELOPER shall hold harmless, defend and indemnify COUNTY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including COUNTY property, arising from, or in connection with, the performance by DEVELOPER or its agents, officers and employees under this Agreement. This indemnification specifically includes any claims that may be made against COUNTY by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against COUNTY alleging civil rights violations by DEVELOPER under Government Code sections 12920 *et seq.* (California Fair Employment and Housing Act), and any fines or penalties imposed on COUNTY for DEVELOPER'S failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions that occur under and during the term of this Agreement or any extension thereof, and during DEVELOPER'S performance under the Reclamation Plan. DEVELOPER shall select counsel to conduct the defense of COUNTY, who shall be authorized to represent COUNTY if COUNTY issues its written consent thereto. COUNTY shall not reject any financial settlement acceptable to DEVELOPER, provided that DEVELOPER pays any and all consideration that is part of said settlement. If COUNTY rejects any financial settlement acceptable to DEVELOPER, COUNTY may continue to defend such action at its own expense. Any non-financial settlement terms shall be subject to approval of both COUNTY and DEVELOPER.

18. DEFAULT: If DEVELOPER fails to comply with the terms and conditions of the Special Use Permit or this Agreement for a period of thirty (30) days following receipt of written notice from COUNTY, then such failure shall constitute a material default or violation and will constitute grounds for revocation of the Special Use Permit. COUNTY shall undertake the procedures set forth in the applicable provisions of the Tulare County Ordinance Code and Zoning Ordinance in effecting such revocation. However, a default shall not occur if, within thirty (30) days following receipt of written notice of default from COUNTY, DEVELOPER provides written notification to COUNTY that it is taking action to cure the default. Such notice shall describe the action being taken and provide a reasonable schedule for completing the action necessary to cure the default. The written approval of DEVELOPER'S reasonable schedule for completing the action necessary to cure the default is subject to the Director of RMA's written approval.

19. REMEDIES: The parties hereto reserve to themselves, and to each of their successors and assigns, any available remedy allowed at law or in equity, including, without limitation, bringing an action for breach of this Agreement or for the specific performance thereof, or, in the case of COUNTY, terminating this Agreement in accordance with the terms hereof.

20. NOTICES: (a) Except as may be otherwise required by law, any notice to be given pursuant to the Special Use Permit and this Agreement shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY:

Tulare County Resource
Management Agency
Government Plaza
5961 South Mooney Boulevard
Visalia, CA 93277

Att: Reed Schenke, P.E., Director

Telephone No.: (559) 624-7000

FAX No.: (559) 730-2653

With A Copy To:

Tulare County Counsel
County Civic Center
2900 West Burrel Avenue
Visalia, Ca 93291

Telephone No.: (559) 636-4950

FAX No.: (559) 737-4319

DEVELOPER:

Foxtail Solar, Inc.
17785 Center Court Drive, Suite 200
Cerritos, CA 90703

(b) Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

(c) Notwithstanding anything to the contrary in this paragraph, COUNTY agrees that any notice of default issued pursuant to paragraph 19 shall be deemed received by, and enforceable against DEVELOPER, only if furnished by personal delivery, or registered or certified mail.

21. RECORDATION OF AGREEMENT: Upon execution of this Agreement by COUNTY and the DEVELOPER, this Agreement shall be recorded in the Office of the Tulare County Recorder. From and after the date of recordation, and subject to the requirements of paragraph 12 relating to assignment and transfer of this Agreement, the terms and conditions of said Special Use Permit and this Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, grantees, successors and assigns of DEVELOPER as covenants running with the land described herein as the Property.

22. FURTHER ASSURANCES: Each party will execute any additional documents and perform any further acts that may be reasonably required to effect the purposes of this Agreement.

23. CONSTRUCTION: This Agreement reflects the contributions of all undersigned parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any alleged uncertainty or ambiguity.

24. HEADINGS: Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

25. NO THIRD-PARTY BENEFICIARIES INTENDED: Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

26. WAIVERS: The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

27. EXHIBITS AND RECITALS: The recitals and the exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

28. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY: This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties hereto to be, in conflict with any code or regulation governing its subject matter, only the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, this Agreement may be terminated at the option of the affected party. In all other cases, the remainder of this Agreement shall continue in full force and effect.

29. ENTIRE AGREEMENT REPRESENTED: This Agreement, together with the attached Special Use Permit and Reclamation Plan, represents the entire agreement between DEVELOPER and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force or effect.

30. MODIFICATION: This Agreement shall be amended or modified only with the prior written consent of all parties hereto and any such amendment shall be recorded forthwith in the Office of the Tulare County Recorder.

THE PARTIES hereto, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

Date: _____

By: _____

Jason T. Britt
Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

APPLICANT/ OWNER (DEVELOPER)

Corporations Code section 17157 requires that contracts with a Limited Liability Company (LLC) shall be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.

Applicant/Owner

Date: _____

By _____

Title _____

Date: _____

By _____

Title _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____

Date

Here Insert Name and Title of the Officer

personally appeared _____

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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State of California)
County of _____)

On _____ before me, _____

Date

Here Insert Name and Title of the Officer

personally appeared _____

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

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☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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State of California)
County of _____)

On _____ before me, _____

Date

Here Insert Name and Title of the Officer

personally appeared _____

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

EXHIBIT “B”

Reclamation Plan for Large Scale Solar Facilities located on Agricultural Lands

The Applicant/Owner, also referred to collectively as “Developer”, of the solar project (the “Project”) permitted pursuant to that certain Special Use Permit **No. PSP 24-065** (the “Permit”) agrees that upon cessation of the Project, the land upon which the Project is located (the “Land”) shall be reclaimed to its previous agricultural condition.

This reclamation plan (the “Plan”) shall be entered into pursuant to Tulare County **Resolution No. *******.

Pursuant to that certain Developer Agreement of **TBD, 2025**, entered into between Developer and the County, this Plan shall become effective automatically and immediately upon expiration or earlier termination of the Project, and shall remain in full force and effect until the requirements of the Plan have been satisfied. Developer shall fully satisfy its obligations hereunder within 60 days of abandonment of the Project or expiration or earlier termination of the Permit. Developer shall notify the County in writing not later than 30 days after the completion of the Plan.

The Plan shall consist of the following procedures, in accordance with Condition **Nos. 25 - 34** of **Resolution No. ******* :

- a) At the time of reclamation and or decommissioning of the solar electrical generation facility, the applicant or owner will be required to recycle the solar photovoltaic panels with a certified solar panel recycler. The Reclamation Plan shall include those items listed in Exhibit “D” to the Developer Agreement.
- b) Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, pipeline corridors, etc., shall be re-contoured, if necessary, and re-vegetated to promote restoration of the area to pre-project conditions. An area subject to “temporary” disturbance means any area that is disturbed during the project, but that after project completion will not be subject to further disturbance and has the potential to be re-vegetated. Appropriate methods and plant species used to re-vegetate such areas shall be determined on a site-specific basis in consultation with the United States Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG), and re-vegetation experts.
- c) Developer shall remove all Project furniture, equipment and personal property regardless of whether or not they are firmly affixed to facilities on the Land.
- d) Developer shall complete the removal of all underground Project improvements, including concrete foundations and pilings to three feet (3’-0”) below grade.

- e) Developer shall remove all at grade and above grade Project structures, buildings and improvements of any kind whatsoever, placed or maintained on the Land, whether placed thereon or maintained by Developer or others.
- f) Hazardous materials contamination of the Land by Developer shall be remediated in compliance in all material respects with all applicable environmental laws.
- g) The Project site shall be restored to a level graded condition.
- h) Developer shall abandon in place (in the same condition they were in immediately prior to abandonment) all wells, pumps, equipment, electrical leads and improvements related to the extraction of ground water from the Land.
- i) Exclusions from Project improvements requiring removal from the Land:
 - i. Any underground Project improvements or any improvements constructed by or on behalf of public utility companies within easements or rights-of-way granted to such public utility companies.
 - ii. Any Project improvement or facility that by mutual agreement between Developer and the County, provided they will not interfere with the potential resumed farming operations on the Land.
- j) The Plan must comply with State, Federal and local requirements at the time Reclamation of the Property site occurs.

Financial Assurances

Unless the Land is owned by a public agency, financial assurances are required to ensure reclamation is performed to return the Land to its previous agricultural condition. Financial assurances may take the form of cash, letter of credit, or bond, parent guarantee from an investment grade entity or other financial security that complies with Section 66499 *et seq.* of the California Government Code as further defined in the dollar amount below to perform of the required act of items A through H of this reclamation plan.

The sole financial assurances to perform of the required act of items A through H of this reclamation plan ("Decommissioning Security") shall be made to the benefit of Tulare County, in the sum of **\$TBD** and shall be secured by Developer: (i) no later than five (5) years following the commencement of the Project; or, (ii) if the Project has been transferred to any entity other than a Permitted Assignee (as defined in the Developer Agreement) upon commencement of the Project or upon transfer of the Project (if the Project has already commenced operation), whichever is earlier. The amount of Decommissioning Security is determined by the Preliminary Cost Estimate for the Reclamation of Tulare CSG 2, LLC, which is attached hereto and incorporated herein by reference as Exhibit C. The financial assurances required hereunder shall remain in effect for the duration of the Project's operation and any additional period until reclamation is completed. Pursuant to paragraph 10 (b), the amount of said security shall be adjusted in accordance with the Consumer Price Index (CPI) of California every five (5) years.

The first adjustment will occur five (5) years after the original posting of the Decommissioning Security.

If the Developer fails to timely perform its obligations under this Plan following abandonment of the Project or expiration or earlier termination of the Permit, the County may either:

- i. Provide written notice to the Developer by personal service or certified mail giving Landowner 60 days to commence or cause the commencement of reclamation and require that reclamation be completed within a time period mutually agreed upon by the County and the Developer; or
- ii. Proceed to take appropriate action to make demand upon the financial assurances furnished pursuant to this Plan if the Developer does not comply with paragraph 4, and use the proceeds solely for the forfeited financial assurances to conduct and complete reclamation. Any funds not used to effect this Plan shall be returned to the party furnishing the financial assurance.

Financial assurances shall no longer be required by the Special Use Permit, and shall be released, upon this Plan being completed in accordance herewith. If the Special Use Permit is transferred, the existing financial assurances shall remain in force and shall not be released by the County until new financial assurances are obtained from the new owner.

AGREED TO AND ACCEPTED BY:

TULARE COUNTY

By: _____

Title: _____

Date: _____

DEVELOPER

By: _____

Title: _____

Date: _____

EXHIBIT “C”

Preliminary Cost Estimate Reclamation Plan for Special Use Permit No. PSP 24-065

**AGREEMENT FOR ALLOCATION OF SALES AND USE TAX REVENUES AND
LIMITATIONS ON TRANSFER OF THE FOXTAIL SOLAR, LLC. PROJECT TO
NONTAXABLE OR TAX EXEMPT ENTITIES UNDER
SPECIAL USE PERMIT NO. PSP 24-065**

This Agreement for Allocation of Sales and Use Tax Revenues and Limitations on Transfer of the Foxtail Solar, LLC. Project to Nontaxable or Tax Exempt Entities Under Special Use Permit No. PSP 24-065 ("Agreement") is entered into by and between Foxtail Solar, LLC., a Limited Liability Company and the County of Tulare, a political subdivision of the State of California ("County"), and is dated for convenience as of DATE EXECUTED.

RECITALS

This Agreement is based on the following facts:

A. Special Use Permit No. PSP 24-065 to allow a five (5) MW Solar Array and a BESS (Battery Energy Storage System, requested by Foxtail Solar, LLC., 17785 Center Court Drive, Suite 200, Cerritos, CA 90703, on behalf of property owner Joe V. Cardoza III, 18839 Road 80, Tulare, CA 93274, on approximately 450 acres of 475.50 acre parcel, in the AE-40 (Exclusive Agriculture – 40 Acre Minimum) Zone, within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture, located at 18839 Road 80, Tulare, CA 93274, on the west side of Road 80, approximately 6.6 miles southeast of the intersection of State Route 99 and State Route 137. It lines within Section 5, Township 21 South, Range 24 East, MDB&M entirely within APN 228-050-020.

B. County is a public entity and a political subdivision of the State of California, having all the powers granted to counties by the California Constitution and statutes, including, but not limited to the power to regulate land uses, approve or deny land use permits, and enforce conditions in such land use permits.

C. County has approved and issued Special Use Permit No. PSP 24-065, subject to certain Conditions of Approval, including Condition of Approval No. 22, a. requiring that Foxtail Solar, LLC. and County execute an agreement covering the matters set forth in this Agreement. This Agreement is intended to fulfill that Condition of Approval.

D. For the purposes of this agreement, EPC Activities shall refer to engineering, procurement and construction in connection with the construction or otherwise attributable to the construction of the Foxtail Solar, LLC. Project.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and agreements set forth in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Foxtail Solar, LLC. and County agree as follows:

1. **Allocation of Sales and Use Tax Revenues.**

A. Situs. Foxtail Solar, LLC., shall take the following actions to maximize County's receipt of sales and use taxes (the "Project Sales/Use Tax Revenues," as further defined below) paid in connection with the construction of the Project or otherwise attributable to the Project construction ("EPC Activities"):

(1) EPC Contract Requirements. Foxtail Solar, LLC., shall contractually require that its engineering, procurement and construction contractor ("EPC Contractor") perform all of the following to the extent permitted by law and consistent with Section 260.020 of the California Board of Equalization ("BOE") Compliance Policy and Procedures Manual and any other requirements of the BOE:

(a) Register as a Seller with the State Board of Equalization ("BOE") and designate the Project jobsite as the business location (or sub-location) for reporting all local sales and use taxes payable that are attributable to the Project on the EPC Contractor's Sales and Use Tax Returns for all EPC Activities or, if already registered as a Seller, register for a Sub-permit for the Project jobsite. The EPC Contractor shall be required to provide a copy of its Seller's Permit or Sub-permit, showing the Project jobsite as the business location (or sub-location), to Foxtail Solar, LLC., within ten (10) days of the effective date of the EPC contract.

(b) Accrue and report all sales and use taxes payable that are attributable to the Project on the EPC Contractor's Sales and Use Tax Returns for all EPC Activities and attribute all such sales and use taxes to Tulare County on Schedule C of BOE Form 530.

(c) Issue resale certificates and report to the Foxtail Solar, LLC., business location (or sub-location) all sales of fixtures and materials furnished in connection with the Project.

(d) Authorize County to share with Foxtail Solar, LLC., all information reported to County concerning sales and use taxes paid by the EPC Contractor related to the Project.

(e) Report to Foxtail Solar, LLC., not later than forty-five (45) days after the end of each calendar quarter during which it has engaged in the EPC Activities the amount of sales and use taxes reported on its Combined State and Local Sales and Use Tax Return related to the Project for that calendar quarter.

(2) Large Subcontractor Requirements. Foxtail Solar, LLC., shall contractually require that its EPC Contractor require the following in any subcontract for EPC Activities for the Project ("EPC Subcontract") that has an estimated value in excess of ~ **Five Million dollars (\$5,000,000.00)**:

(a) Fixtures. If the EPC Subcontract involves furnishing fixtures (as defined in applicable BOE regulations; see, for example, Sections 1521, 1806 and 1826), that the EPC Subcontractor perform all of the following to the extent permitted by law and consistent with Section 260.020 of the California Board of Equalization ("BOE") Compliance Policy and Procedures Manual and any other requirements of the BOE:

(i) Register as a Seller with the BOE and designate the Project jobsite as the business location (or sub-location) for reporting all local sales and use taxes payable that are attributable to the Project on the EPC Subcontractor's Sales and Use Tax Returns for all EPC Activities or, if already registered as a Seller, register for a Sub-permit for the Project jobsite. The EPC Subcontractor shall be required to provide a copy of its Seller's Permit or Sub-permit, showing the Project jobsite as the business

location (or sub-location), to Foxtail Solar, LLC., and the EPC Contractor within ten (10) days of the effective date of the EPC Subcontract.

(ii) Accrue and report all sales and use taxes payable that are attributable to the Project on the EPC Subcontractor's Sales and Use Tax Returns for all EPC Activities and attribute all such sales and use taxes to Tulare County on Schedule C of BOE Form 530.

(iii) Issue resale certificates and report to the business location (or sub-location) all sales of fixtures furnished in connection with the Project to the jobsite.

(iv) Authorize County to share with Foxtail Solar, LLC., and the EPC Contractor all information reported to County concerning sales and use taxes paid by the EPC Subcontractor related to the Project.

(v) Report to Foxtail Solar, LLC., and the EPC Contractor not later than forty-five (45) days after the end of each calendar quarter during which it has engaged in EPC Activities the amount of sales and use taxes reported on its Combined State and Local Sales and Use Tax Return related to the Project for that calendar quarter.

(b) Materials. If the EPC Subcontractor involves furnishing of materials (as defined in the applicable BOE regulations; see, for example, Sections 1521, 1806 and 1826), that the EPC Subcontractor perform all of the following to the extent permitted by law and consistent with Section 260.020 of the California Board of Equalization ("BOE") Compliance Policy and Procedures Manual and any other requirements of the BOE:

(i) Register either as a Consumer or a Seller with the BOE and designate the Project jobsite as the business location (or sub-location) for reporting all local sales and use taxes payable that are attributable to Project on the EPC Subcontractor's Sales and Use Tax Returns for all EPC Activities. If the EPC Subcontractor is already registered with BOE as a Seller, it shall register for a Sub-permit for the Project jobsite. If the EPC Subcontractor is already registered with the BOE as a Consumer, it shall report all taxes for material used in the Project to the Project jobsite location. The EPC Subcontractor shall be required to provide a copy of its Seller's or Consumer's Permit or Sub-permit, showing the Project jobsite as the business location (or sub-location), to Foxtail Solar, LLC., and the EPC Contractor within ten (10) days of the effective date of the EPC Subcontract.

(ii) Accrue and report all use taxes payable that are attributable to the Project on the EPC Subcontractor's Sale and Use Tax Returns for all EPC Activities as follows:

(1) If registered as a Consumer, accrue and report all purchases related to the Project that are subject to use tax on the EPC Subcontractor's Sales and Use Tax Returns for all EPC Activities and attribute all such taxes to Tulare County.

(2) If registered as a Seller:

(a) If the EPC Subcontract is on a lump sum or fixed price basis, follow the requirements set forth in Section 1.A.(2)(a)(ii), above: and

(b) If the EPC Subcontract is on a time and materials plus tax basis, follow the requirements set forth in Section 1.A.(2)(a)(iii), above.

(iii) Authorize County to share with Foxtail Solar, LLC., and the EPC Contractor all information reported to County concerning use taxes paid by the EPC Subcontractor related to the Project.

(iv) Report to Foxtail Solar, LLC., and the EPC Contractor not later than forty-five (45) days after the end of each calendar quarter during which it has engaged in EPC Activities the amount of taxes reported on its Combined State and Local Sales and Use Tax Return related to the Project for that calendar quarter.

(c) Fixtures and Materials. If the EPC Subcontract involves furnishing of both fixtures and materials (as defined in applicable BOE regulations), that the EPC Subcontractor perform all of the requirements set forth in Sections 1.A.(2)(a) and (b) to the extent permitted by law.

2. **Transfers to Nontaxable or Tax Exempt Public Entities.**

Foxtail Solar, LLC. shall ensure that the Project is not transferred to a nontaxable public entity (other than County), or other entity that is exempt from payment of property taxes, unless that entity agrees to either waive its property tax exemption or pay a fee to the County on an on-going basis, that together with any property taxes payable by the entity, is equivalent to the amount of real property taxes it would be required to pay if it were not a nontaxable or tax exempt entity.

3. **Liberal Construction.**

Notwithstanding any general rule of construction to the contrary, it is the intention of the parties that this Agreement shall be liberally construed to effectuate its purposes. If any provision of this Agreement is found to be ambiguous, an interpretation consistent with the purposes of this Agreement that would render the provision valid shall be favored over any interpretation that would render it invalid.

4. **Applicable Law and Forum.**

This Agreement shall be construed and interpreted according to the substantive law of California excluding the law of conflicts. Any action to enforce the provisions of this Agreement or the breach thereof shall be brought and tried in the County of Tulare.

5. **Severability.**

If any provision of this Agreement is found to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other provision of this Agreement.

6. **Integration.**

This Agreement is the final and complete expression of the agreement between parties as to its subject matter and all prior or contemporaneous agreements written or oral are merged into this instrument.

7. **Authority to Bind Parties.**

Foxtail Solar, LLC. and the County each warrant and represent that the persons executing this Agreement on their behalf have full and complete legal authority to do so and to thereby bind them to this agreement.

8. **Captions.**

The Captions in this Agreement are solely for convenience of reference. They are not part of this Agreement and shall have no effect upon its construction or interpretation.

IN WITNESS WHEREOF, County of Tulare and Foxtail Solar, LLC. have executed this Agreement as of the day and year set forth above.

Corporations Code Section 17157 requires that contracts with a limited Liability Company (LLC) shall be signed by at least two managers, unless the contract is accompanied by a certified copy of the article of organization stating that the LLC is managed by only one manager. Corporations Code section 313 requires that contracts with a Corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract.

Foxtail Solar, LLC.

Date: _____

By: _____

Title: _____

Date: _____

By: _____

Title: _____

COUNTY of TULARE

Date: _____

By: _____

Jason T. Britt
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

Approved as to Form
Tulare County Counsel
Jennifer M. Flores

by Deputy: _____

Matter No.: _____

Attachment No. 4

RESOURCE MANAGEMENT AGENCY



OFFICE MEMORANDUM

February 6, 2025

TO: Aaron R. Bock, MCRP, JD, LEED AP
Assistant RMA Director

FROM: David Alexander, Planner III

SUBJECT: Special Use Permit No. PSP 24-065

Applicant: Foxtail Solar, Inc.
17785 Center Court Drive, Suite 200
Cerritos, CA 90703

Owner: Joe V. Cardoza III
18839 Road 80
Tulare, CA 93274

Proposal: The applicant has requested a Mitigated Negative Declaration as the appropriate environmental determination and conditionally approving Special Use Permit No. PSP 24-065 to allow a 55 MW Solar Array and a 55 MW BESS (Battery Energy Storage System, requested by Foxtail Solar, LLC., 17785 Center Court Drive, Suite 200, Cerritos, CA 90703, on behalf of property owner Joe V. Cardoza III, 18839 Road 80, Tulare, CA 93274, on approximately 450 acres of 475.50 acre parcel, in the AE-40 (Exclusive Agriculture – 40 Acre Minimum) Zone, within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture, located at 18839 Road 80, Tulare, CA 93274, on the west side of Road 80, approximately 6.6 miles southeast of the intersection of State Route 99 and State Route 137. It lines within Section 5, Township 21 South, Range 24 East, MDB&M entirely within APN 228-050-020.

The purpose of the proposed Project is to construct and operate a PV solar array with attached battery storage, which will generate and store clean and renewable solar energy, with electricity offtake sold to residential customers within Tulare County and the larger Southern California Edison (“SCE”) Utility Territory. The Project is proposed under the California Assembly Bill 2316 (AB2316), adopted by the California legislature in 2022. AB2316 instructs the California Public Utilities Commission to establish a new community solar program by March 2024 which will bolster the reliability of the electrical grid while benefitting those who cannot put solar on their roofs. The law requires that under the new program at least 51% of community solar subscribers must be low-income, and that projects will be built by workers paid prevailing union wages.

The proposed Project would install approximately 108,344 single-axis tracker solar panels on the site. The layout of the single axis tracker solar panels will be in an east-west direction. The maximum height of the would be up to 10 feet above grade at the beginning and end of each day. Each solar panel would be attached to embedded piers using a support structure. Module layout

and spacing is typically optimized to balance energy production versus peak capacity and depends on the sun angles and shading due to the surrounding horizon of the site. The modules would typically be mounted with the longer side-oriented east to west across the tracker system's north-south axis. Individual arrays of modules would be combined to generate the total plant capacity.

The AC-DC electrical collection system includes all cables and combiners that collect electricity from the panels, delivers it to the inverters, collects it from the inverters, and ultimately delivers it to the Project switching station(s). The collection system would likely be installed along internal access roads to collect power from the rows of modules and deliver it to the switching station. This collection system would likely be installed in subsurface trenches, though in some areas of the site, part or all the collection system may be housed in above-grade raceways mounted on supports approximately 24-36 inches above ground level. The collection system would be rated at between 1,000-2,000 volts DC until it reached the inverters and a 33 kV AC intermediate voltage system between the inverters and the project switching station.

The Project would use a typical unmanned field control system. The controls generally include a field supervisory controller in a central location and local microprocessor controllers connected to each tracker, if trackers are to be used. The field control system monitors solar insolation, wind velocity, and tracker performance and status, and communicates with all the local microprocessor controllers. When the appropriate conditions exist, the field supervisory controller initiates the trackers' daily tracking of the sun, and at the end of the day stows the trackers in the solar array.

The DC electricity produced by the solar panels is converted to three-phase alternating current by a series of inverters. The solar facility and BESS would each require up to 16 inverters. Alternating current is the type of electricity usable by the electric utility and is the form required to connect to the transmission system. The inverter pad equipment includes a transformer that steps up the electricity in its new form to an output voltage of 66 kV. This electricity is then transmitted via the medium voltage collection system to the switching station.

As proposed, the proposed project includes a BESS that would be located within the project footprint. The BESS would encompass a maximum of approximately 3.43 total acres. The BESS, would be installed/constructed on the project site and would have appropriate fire suppression systems built to applicable state and local code requirements. The final design would include appropriate containment features (secondary containment) to prevent the escape of liquids or spills from the BESS site.

The BESS would be contained within an outdoor-rated steel enclosure and electrically connected to the inverters. The modular container stacks would be set on a concrete or steel pile foundation and would be approximately 8 feet wide by 72 feet long by 11 feet high. The proposed BESS would be designed, constructed, operated, and maintained in accordance with applicable industry best practices and regulatory requirements, including compliance with the latest National Fire Protection Association (NFPA) fire safety codes and fire rating in conformance with Tulare county standards.

The BESS would use one of several commercially available lithium ion (Li ion) technologies,

though alternatives may be considered (such as flow batteries). Due to the rapidly changing technology in the battery industry, it may be more efficient, environmentally conscious, and economical, to use a then-current technology.

As planned, the BESS would consist of self-contained battery storage modules placed in racks, switchboards, inverters, transformers, controls, and integrated heating, ventilation, and air conditioning (HVAC) units, all enclosed in one or more buildings or in prefabricated metal modular container stacks. Potential hazards associated with BESS include increased potential for electrical shock and chemical release associated with the batteries used. The BESS would have fire suppression systems that would have a fire rating and built to applicable State and local code requirements. Also, implementation of established construction controls and safety procedures would reduce the risk of hazardous materials spills and releases.

The proposed battery energy storage system would be designed, constructed, operated and maintained in accordance with applicable industry best practices and regulatory requirements, including fire safety standards.

The facility will operate automatically, be remotely monitored, and remain unmanned. Occasional site visits would occur for security, maintenance, and repairs.

The solar array and all balance of system equipment will be enclosed in a seven-foot-tall chain link fence in compliance with the National Electric Code. The fence will have at least one vehicle access gate at the boundary of the array, which will always remain locked, except during operations and maintenance activities. A Knox box will be installed at the entrance gate to provide 24-hour access for emergency responders.

No new water infrastructure is proposed in association with the Project and minimal water will be used as needed for construction and maintenance activities such as dust mitigation and panel washing.

Sewer and Solid Waste Sewer services are proposed in association with the Project. Temporary sanitary facilities will be placed onsite during construction. Solid waste is anticipated to be produced only during construction, primarily comprised of equipment packaging, and will be disposed of in accordance with County standards offsite.

The Tulare County Environmental Health Services Division, the Tulare County Public Works/Engineering Division, the Tulare County Fire Department, the Tulare County Code Enforcement, the Tulare County Environmental Coordinator, the California State Department of Fish and Wildlife District 4, the California State Regional Water Quality Control Board District 5, the San Joaquin Valley Air Pollution Control District, the California State Public Utilities Commission, the California State Department of Conservation, Edison international, and the Tulare County Farm Bureau were sent a consultation request.

Correspondence from other agencies may have requested conditions of approval. The Administrative Actions have standard conditions of approval that were adopted by the Planning Commission and Board of Supervisors to impose consistent and pertinent conditions. All other conditions must be imposed as allowed by existing regulations on building permits.

Developer Agreement: Tulare County Zoning Ordinance No. 352, by Board of Supervisors Resolution No. 2010-0458 (as amended by Resolution No. 2010-0590) requires a Developer Agreement that includes a Reclamation Plan and Sales Tax Agreement.

Reclamation Plan: A Reclamation Plan is required to return the land to its current, or better, agricultural condition. To ensure reclamation is performed, financial assurances are required by the developer based upon an engineer's estimated probable cost of the reclamation. The Reclamation Plan will incorporate a Storm Water Pollution Prevention Plan (SWPPP) and Dust Control Measures; the dismantling and removal of all equipment from the site, to include recycling and disposal of E-waste; site demolition, to include the removal of fencing and gravel; and site reclamation, to include finish grading and the application of compost and seed mixture.

Sales Tax Agreement: A Sales Tax Agreement will require the project location to be considered as the point-of-sales to maximize the capture of sales and use tax revenue for Tulare County.

General Plan: The site is located within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture. The Project is consistent with the following relevant General Plan 2030 Policies: (1) AG-2.11 Energy Production; (2) LU-7.15 Energy Conservation; (3) ERM-4; (4) ERM-4.1; (5) ERM-4.3; (6) ERM-4.5; (7) ERM-4.6; (8) AQ-1; (9) AQ-1.7; (10) AQ-3.5; (11) HS-8.18; and (12) HS-8.19.

Entitlement(s): Section 16 of Ordinance No. 352, as amended, the zoning ordinance allows the construction and operation of public utility structures in the AE-40 Zone, subject to approval of a special use permit.

Tulare County Zoning Ordinance No. 352, Resolution No. 2010-0458 and 2010-0590 included both Solar and Wind Electrical Generation Facilities under the definition of Private and Public Utility Structures and Resolution No. 2010-0590 included Agricultural Zone Districts as a Special Use Permit requirement.

Zoning: The project site is located in the AE-40 (Exclusive Agriculture – 40 acre minimum) Zone and contains field crop agriculture. All surrounding properties of the subject site are zoned AE-40, and contains agricultural and a dairy operation.

North – Agriculture developed land improved with operating dairies and accessory structures zoned AE-40 (Exclusive Agriculture, 40-acre minimum).

East – Agricultural land zoned AE-40.

South- Agricultural land zoned AE-40 and a Southern California Edison (SCE) electrical substation.

West- Agricultural land zoned AE-40.

Williamson Act: The subject parcel is under a Williamson Act Land Conservation Contract, Preserve No. 1047, and Contract No. 4538.

History: There are no current or past violations associated with the subject parcels.

Project Review Committee Application No. PRC 23-066 was approved for the applicant to submit the Special Use Permit application on February 1, 2024.

Environmental Determination: The project is Mitigated Negative Declaration from the California Environmental Quality Act (CEQA) and the State CEQA Guidelines for the Implementation of the California Environmental Quality Act of 1970, as amended, pursuant to Title 14, Cal. Code Regulations Section 15074, pertaining to Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration. As the proposed project use is less than the current by right use agriculture. Due to onsite water use not being allowed, no pesticide use will be necessary, and air bourn particulates created by agriculture will be eliminated, the use of Section 15074, pertaining to Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration is applicable.

Public Notice: A Notice of Application and Comment Period was mailed to property owners adjacent to the subject site on March 12, 2025, allowing them the opportunity to submit written comments on this application. None were received. Gov. Code sec 65009(b) requires the County to include in any public notice issued pursuant to Government Code, Title 7, Planning and Land Use, a notice substantially stating all of the following: “If you challenge the Certification of the Negative Declaration and the Change of Zone, 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 County of Tulare at, or prior to, the public hearing.”

Appeals: All Administrative Actions on Special Use Permits are final unless appealed, in writing, to the Board of Supervisors, 2800 W. Burrel, Visalia, CA 93291-4582 within 10 calendar days after the date on which the decision is made. The written appeal shall specifically set forth the grounds for the appeal and shall be accompanied by the appropriate appeals fee.

School Impact Fees: The subject site is located within the Tulare School Districts which has/have implemented developer's fees for all assessable space for new residences and expansions to existing residences; and for chargeable covered and enclosed space for new commercial and industrial development pursuant to Government Code Section 53080. These fees are required to be paid prior to the issuance of any permit for the construction of new commercial or industrial structures, and/or installation or construction of new or expanded residential structures.

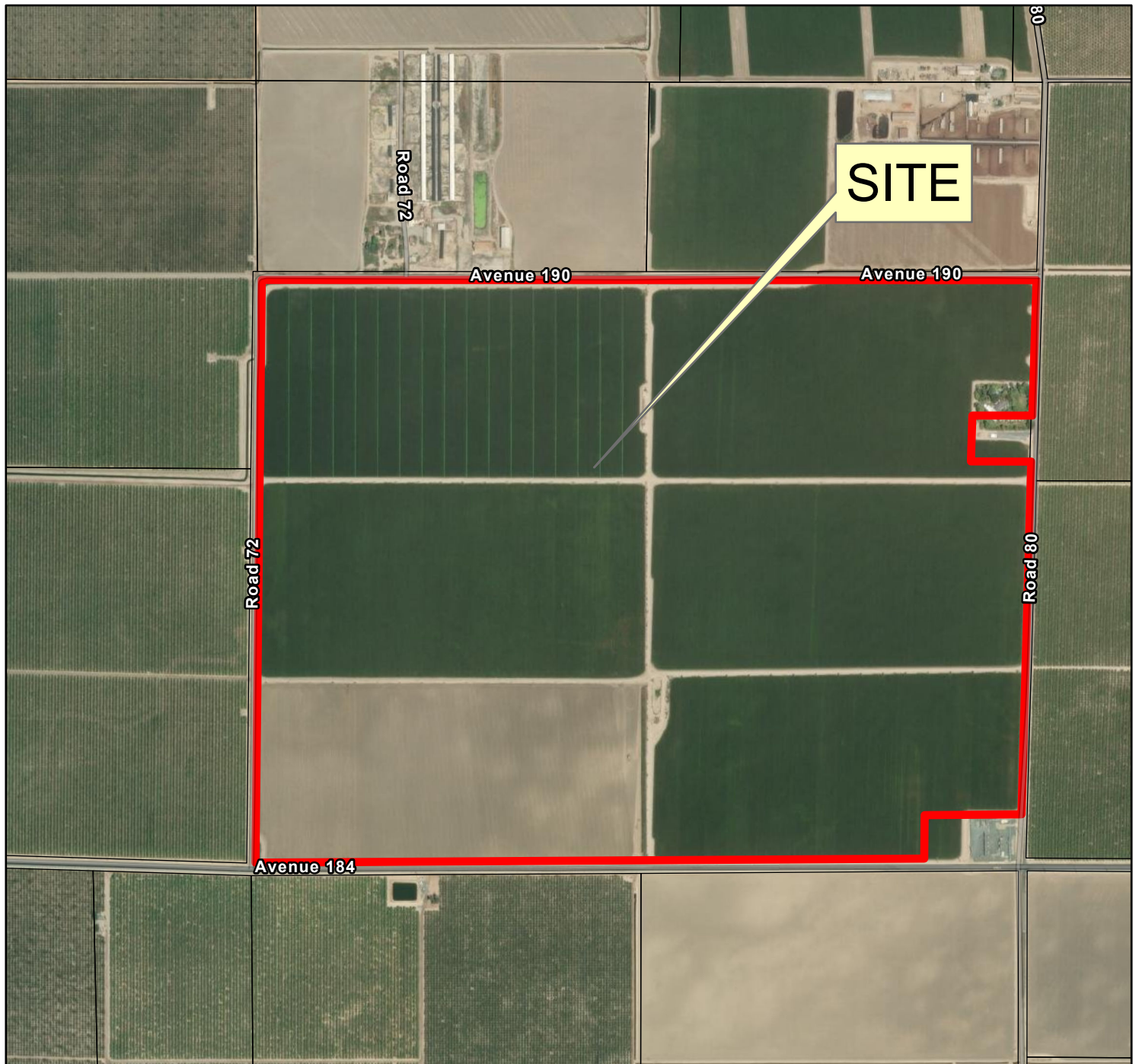
Compliance Reporting and Monitoring Schedule Fees: A Compliance Reporting and Monitoring Schedule has been established for this project pursuant to Section 22 of the Tulare County Zoning Ordinance. Fees, required to defray the expenses incidental to the compliance reporting and monitoring, will be required to be deposited into a Compliance Reporting and Monitoring Account prior to recording the Resolution (See Exhibit No. C).

Right to Farm Notice: In accordance with Section 7-29-1070(a) of the Tulare County Ordinance Code, and as a condition of approval of the special use permit, a Right to Farm Notice shall be recorded with the resolution approving the special use permit. (See Exhibit B)

Aerial Photograph for

Attachment No. 5

PSP 24-065



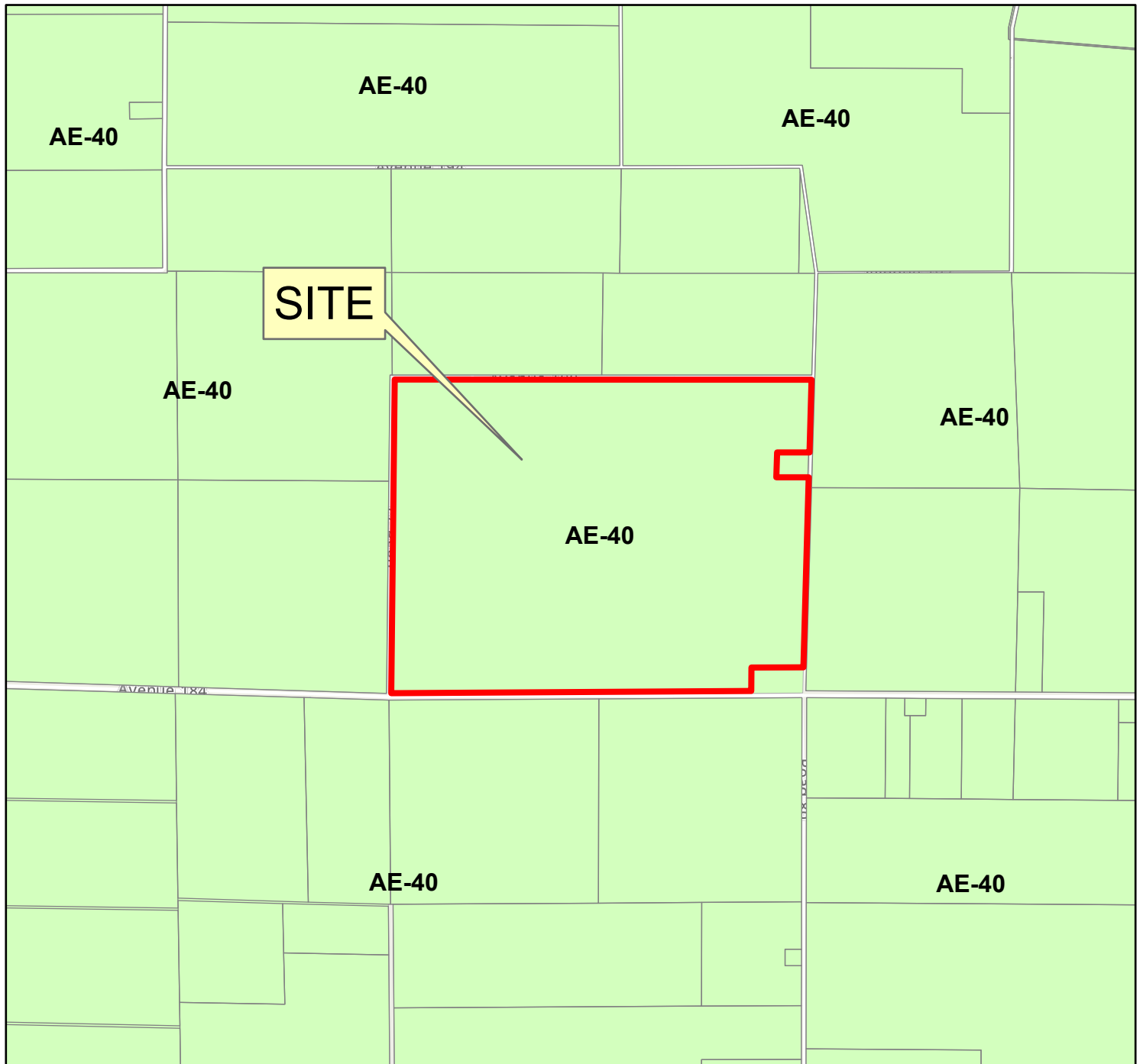
Owner: JOE V. CARDOZA III
Applicant: FOXTAIL SOLAR, LLC.
Address: 18839 ROAD 80
City, State, ZIP: TULARE, CA 93274
Supervisory District: 2
Assessors Parcel: 228-050-020

0 1,000 2,000
Feet

Parcels
PSP 24-065



Existing Zoning Map for PSP 24-065



Owner: JOE V. CARDOZA III
Applicant: FOXTAIL SOLAR, LLC.
Address: 18839 ROAD 80
City, State, ZIP: TULARE, CA 93274
Supervisory District: 2
Assessors Parcel: 228-050-020

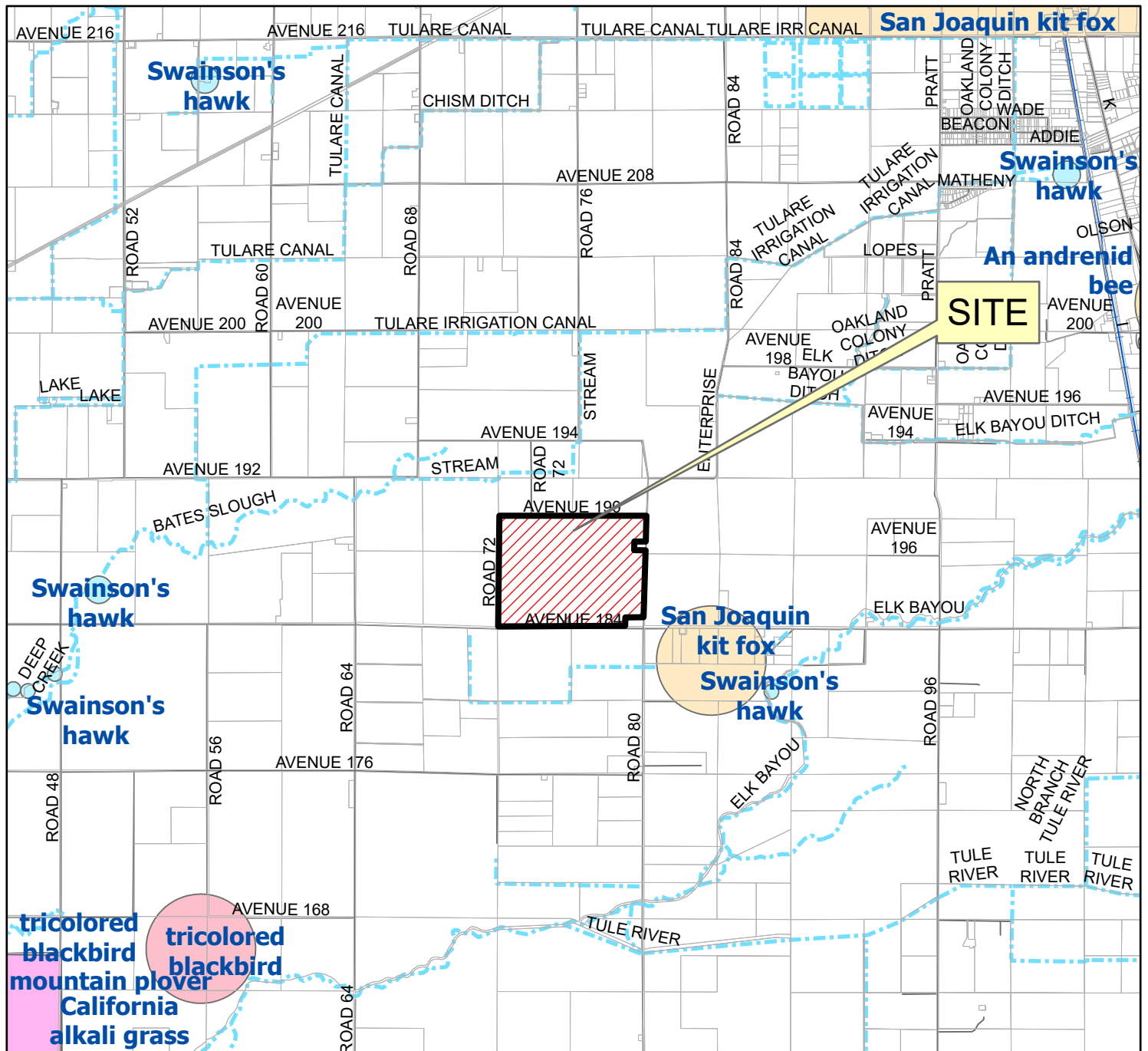
0 1,000 2,000 4,000 Feet

ZONE

	AE-40		Parcels
	PSP 24-065		



Species of Concern for PSP 24-065



Legend

0 0.42 0.85 1.7
Miles



CNDDDB (Aug 2024)

CNAME

- An andrenid bee
- California alkali grass

- San Joaquin kit fox
- Swainson's hawk
- alkali-sink goldfields
- mountain plover

- tricolored blackbird
- STREAMS

Railroad name

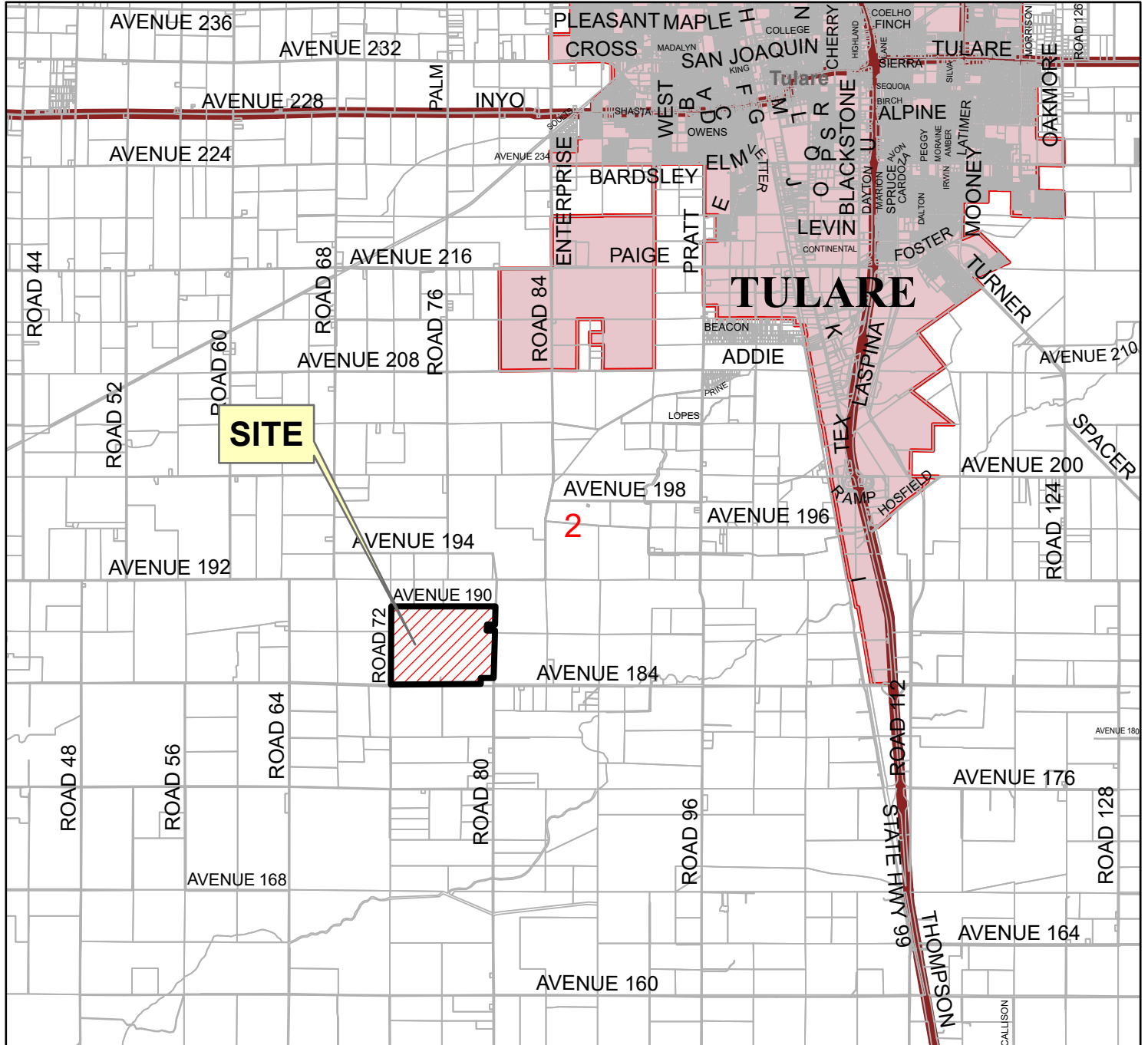
- Union Pacific Railroad

— streets

□ SITE

PSP 24-065

Vicinity Map for PSP 24-065



Supervisorial District: 2

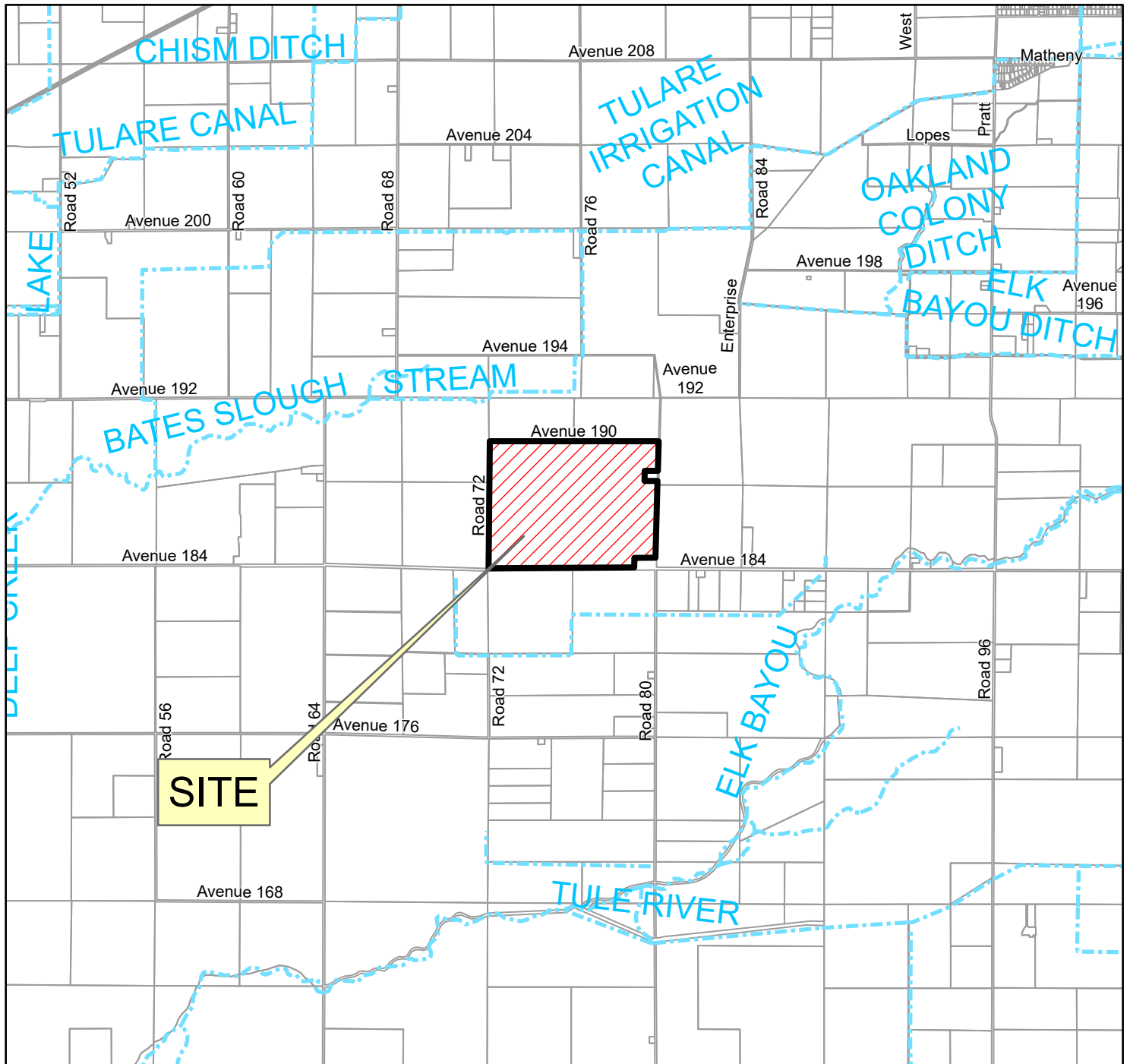
- Supervisorial Districts
- Highways
- Streets
- Place Names





- Cities
- Parcels
- PSP 24-065

0 0.5 1 2 Miles



Waterways Map for PSP 24-065



-  Waterways
-  County Boundary
-  Parcels
-  PSP 24-065

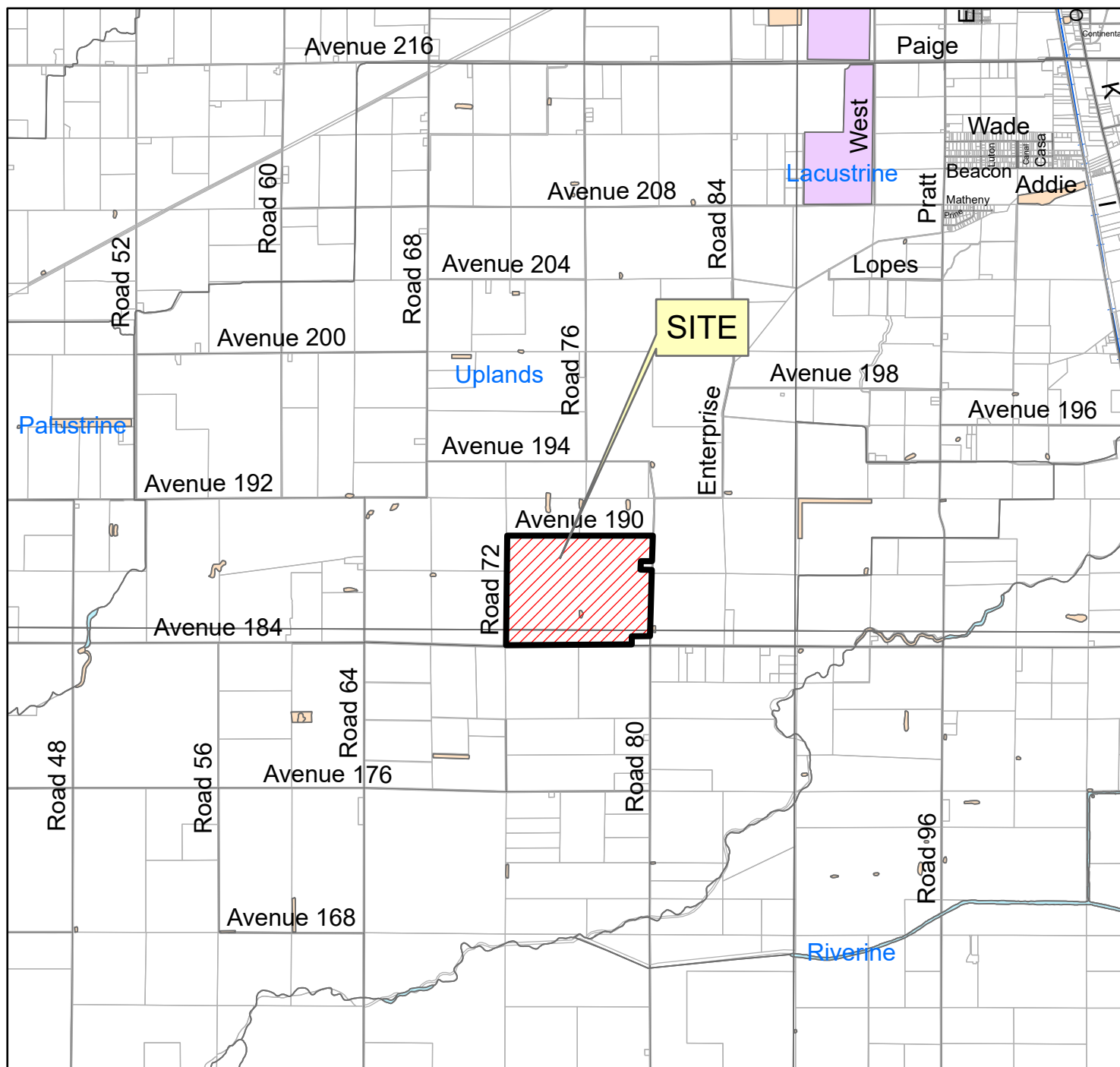
0 0.5 1
Miles



Wetlands Map

For

PSP 24-065



TYPE	
	Lacustrine
	No Data
	Palustrine
	Riverine
	Uplands
	<all other values>
	Parcels
	PSP 24-065

0 0.75 1.5
Miles



Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
						Initials	Date	Remarks
BIOLOGICAL RESOURCES								
AQ-1	Engine Standards for Off-Road Equipment. In order to reduce the impact of PM10 off-road equipment exhaust emissions during construction-related activities, applicant shall ensure that construction contracts stipulate that all off-road diesel-powered equipment used will be equipped with USEPA Tier 4 or cleaner engines, except for specialized equipment in which an USEPA Tier 4 engine is not available. In lieu of Tier 4 engines, project equipment can incorporate retrofits such that emissions reductions achieved equal to that of the Tier 4 engines at a minimum. The construction contractor shall submit a detailed list of the equipment fleet that demonstrates achievement of this mitigation measure to Tulare County Resource Management Agency Planning Branch for approval prior to receiving Notice to Proceed.	Prior to construction	Once prior to start of construction and once after completion of construction	County of Tulare	Equipment and Usage Report			
BIOLOGICAL RESOURCES								
Measures for Special Status Plant Species								
BIO-1	(Pre-construction Survey) A qualified biologist/botanist will conduct preconstruction surveys for special status plant species in accordance with the California Department of Fish and Wildlife (CDFW) Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (2009). This protocol includes identification of reference populations to facilitate the likelihood of field investigation occurring during the appropriate floristic period. Surveys should be timed to coincide with flowering periods for species that could occur (March-May). In the absence of protocol-level surveys being performed, additional surveys may be necessary.	Prior to start of construction	Once within 30 days of construction, unless pre-construction survey results in new recommendations for further study and mitigation; then mitigation should occur as recommended following coordination with Tulare County RMA	County of Tulare	Field survey by a qualified Biologist			

Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
						Initials	Date	Remarks
	<ul style="list-style-type: none"> If special status plant species are not identified during preconstruction surveys, no further action is required. If special status plant species are detected during preconstruction surveys, plant population shall be avoided with the establishment of a minimum 50-foot no disturbance buffer from the outer edge of the plant population. If buffers cannot be maintained, the Sacramento Field Office of the USFWS and the Fresno Field Office of CDFW shall be contacted immediately to identify the appropriate minimization actions to be taken as appropriate for the species identified and to determine permitting needs. 							
Measures for Special Status Animal Species								
BIO-2	(Pre-construction Survey) A qualified biologist will conduct pre-construction surveys during the appropriate periods for special status animal species in accordance with CDFW guidance and recommendations. In the absence of protocol-level surveys being performed, additional surveys may be necessary. If special status animal species are not identified during pre-construction surveys, no further action is required. If special status animal species are detected during pre-construction surveys, the Sacramento Field Office of the USFWS and the Fresno Field Office of CDFW shall be contacted immediately to identify the appropriate avoidance and minimization actions to be taken as applicable for the identified species and to determine permitting needs.	Prior to start of construction	Once within 30 days of construction, unless pre-construction survey results in new recommendations for further study and mitigation; then mitigation should occur as recommended following coordination with Tulare County RMA	County of Tulare	Field survey by a qualified Biologist			
Measures for Special Status Plant and Animal Species Identified in Pre-construction Surveys								
BIO-3	(Employee Education Program) Prior to the start of construction, the applicant shall retain a qualified biologist/botanist to conduct a tailgate	Prior to construction-	As needed if special status	County of Tulare	Qualified biologist working with			

Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
						Initials	Date	Remarks
	meeting to train all construction staff that will be involved with the project on the special status species that occur, or may occur, on the project site. This training will include a description of the species and its habitat needs; a report of the occurrence of the species in the project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of the measures being taken to reduce impacts to the species during project construction and implementation.	related activities	species are detected		USFWS and/or CFW			
Measures for Nesting Raptors and Migratory Birds (Including Swainson's Hawk, Loggerhead Shrike, Prairie Falcon, and Northern Harrier)								
BIO-4	(Avoidance) In order to avoid impacts to nesting raptors and migratory birds, individual Projects within the Project will be constructed, where possible, outside the nesting season (between September 1st and January 31st).	Implemented only if sensitive species are encountered	Throughout construction	County of Tulare	Determination by qualified biologist			
BIO-5	(Pre-construction Survey) If Project activities must occur during the nesting season (February 1-August 31), the proponent is responsible for ensuring that implementation does not violate the Migratory Bird Treaty Act or relevant Fish and Game Code. A qualified biologist shall conduct pre-construction surveys for active raptor and migratory bird nests within 10 days of the onset of these activities. The survey will include the proposed work area(s) and surrounding lands within 500 feet for all nesting raptors and migratory birds; with the exception of Swainson's hawk. The Swainson's hawk survey will utilize the Swainson's Hawk Technical Advisory Committee <i>Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley</i> (2000) methodology which will extend to ½-mile outside of work area boundaries. If no nesting pairs are found within the survey area, no further mitigation is required.	Prior to start of construction	Once within 10 days of construction, unless a pre-construction survey results in new recommendations for further study and mitigation, then mitigation should occur as recommended following coordination with Tulare County RMA	County of Tulare	Field survey by a qualified Biologist			

Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance																										
						Initials	Date	Remarks																								
BIO-6	<p>(Pre-construction Survey) A qualified biologist will conduct pre-construction surveys in accordance with Swainson’s Hawk Technical Advisory Committee <i>Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley</i> (2000) which employs the following:</p> <table><tr><th>Survey Period</th><th>Survey Dates</th><th>Survey Time</th><th>Number of Surveys Needed</th></tr><tr><td>I</td><td>January – March 20</td><td>All day</td><td>1</td></tr><tr><td>II</td><td>March 20 – April 5</td><td>Sunrise – 1000; 1600 to Sunset</td><td>3</td></tr><tr><td>III</td><td>April 5 – April 20</td><td>Sunrise – 1200; 1630 – Sunset</td><td>3</td></tr><tr><td>IV</td><td>April 21 – June 10</td><td>Monitoring sites only</td><td>Initiating surveys is not recommended</td></tr><tr><td>V</td><td>June 10 – July 30</td><td>Sunrise – 1200; 1600 – Sunset</td><td>3</td></tr></table> <p>If project activities must occur during the nesting season (February 1-August 31), the project proponent and/or their contractor is responsible for ensuring that implementation does not violate the Migratory Bird Treaty Act or relevant Fish and Game Code, and a qualified biologist will conduct pre-construction surveys for active raptor and migratory bird nests within 10 days of the onset of these activities. The survey will include the proposed work area(s) and surrounding lands within 500 feet for all nesting raptors and migratory birds save Swainson’s hawk; the Swainson’s hawk survey will extend to ½ mile</p>	Survey Period	Survey Dates	Survey Time	Number of Surveys Needed	I	January – March 20	All day	1	II	March 20 – April 5	Sunrise – 1000; 1600 to Sunset	3	III	April 5 – April 20	Sunrise – 1200; 1630 – Sunset	3	IV	April 21 – June 10	Monitoring sites only	Initiating surveys is not recommended	V	June 10 – July 30	Sunrise – 1200; 1600 – Sunset	3	Prior to start of construction	Once within 30 days of construction, unless a pre-construction survey results in new recommendations for further study and mitigation, then mitigation should occur as recommended following coordination with Tulare County RMA	County of Tulare	Field survey by a qualified Biologist			
Survey Period	Survey Dates	Survey Time	Number of Surveys Needed																													
I	January – March 20	All day	1																													
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Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
						Initials	Date	Remarks
	outside of work area boundaries. If no nesting pairs are found within the survey area, no further mitigation is required.							
BIO-7	<p>(Buffers) Should any active nests be discovered near proposed work areas, a qualified biologist will determine appropriate construction setback distances and a behavioral baseline of all identified nests based on applicable CDFW guidelines and/or the biology of the affected species. Within these buffers, the biologist will continue monitoring to detect behavioral changes. If adverse behavioral changes occur, the activity causing the changes will cease and CDFW will be consulted to determine if avoidance and minimization measures need to be modified to adequately protect the impacted birds. Construction-free buffers will be identified on the ground with flagging, fencing, or by other easily visible means, and will be maintained until the biologist has determined that the young have fledged (i.e., when a bird's feathers and wing muscles are sufficiently developed for flight). Unless a variance is approved by CDFW, the buffer shall not be less than 250 feet around active nests of non-listed bird species and not less than 500 feet around active nests of non-listed raptor species until the birds have fledged. Unless a variance is approved by CDFW, a ½ mile distance shall be used for SWHA, until the birds have "fledged".</p>	Implemented only if sensitive species are encountered	Throughout construction	County of Tulare	Determination by qualified biologist			
Measures for Burrowing Owl								
BIO-8	<p>(Pre-construction Survey) A pre-construction survey for burrowing owls will be conducted by a qualified biologist within 30 days of the onset of project-related activities involving ground disturbance or heavy equipment use. The survey area will include all suitable habitat on and within</p>	Prior to the start of construction	Once within 30 days of construction, unless a pre-construction survey results in	County of Tulare	Field survey by a qualified Biologist			

Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
						Initials	Date	Remarks
	500 feet of project impact areas, where accessible.		new recommendations for further study and mitigation then mitigation should occur as recommended following coordination with Tulare County RMA					
BIO -9	(Avoidance of Active Nests.) If pre-construction surveys and subsequent project activities are undertaken during the breeding season (February 1-August 31) and active nest burrows are located within or near project impact areas, then a 250-foot construction setback will be established around active owl nests, or alternate avoidance measures implemented in consultation with CDFW. The buffer areas will be enclosed with temporary fencing to prevent construction equipment and workers from entering the setback area. Buffers will remain in place for the duration of the breeding season, unless otherwise arranged with CDFW. After the breeding season (i.e., once all young have left the nest), passive relocation of any remaining owls may take place as described below.	Prior to construction-related activities	Retention of professional biologist/ongoing monitoring/ submittal of Report of Findings, if applicable	County of Tulare RMA and CDFW	Qualified biologist			
BIO-10	(Passive Relocation of Resident Owls). During the non-breeding season (September 1-January 31), resident owls occupying burrows in project impact areas may be passively relocated to alternative habitat in accordance with a relocation plan prepared by a qualified biologist. Passive relocation may include one or more of the following elements: 1) establishing a minimum 50 foot buffer around all active burrowing owl burrows, 2) removing all suitable burrows outside	Prior to construction-related activities	Retention of professional biologist/ongoing monitoring/ submittal of Report of Findings, if applicable	County of Tulare RMA and CDFW	Qualified biologist			

Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
						Initials	Date	Remarks
	the 50 foot buffer and up to 160 feet outside of the impact areas as necessary, 3) installing one-way doors on all potential owl burrows within the 50 foot buffer, 4) leaving one-way doors in place for 48 hours to ensure owls have vacated the burrows, and 5) removing the doors and excavating the remaining burrows within the 50 foot buffer.							
Measures for Tricolored Blackbird (TRBL)								
BIO-11	<p>(Pre-construction Surveys) If construction activities must occur between February 1 and September 15, then a qualified biologist will conduct pre-construction surveys to determine the presence/absence of tricolored blackbirds on and, to the extent feasible, within 500 feet of the project site, no more than 10 days prior to the start of construction.</p> <p>Should any tricolored blackbirds be discovered within the survey area, then the observation will be submitted to the CNDDDB, and the local CDFW office (Fresno) will be contacted. Additional measures, if any, will be identified in consultation with the CDFW based on local conditions.</p>	Prior to construction-related activities	Retention of professional biologist/ongoing monitoring/submit tal of Report of Findings, if applicable	County of Tulare RMA	Qualified biologist			
Measures for San Joaquin Kit Fox								
BIO12	<p>(Pre-construction Survey) Pre-construction surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance, construction activities, and/or any project activity likely to impact the San Joaquin kit fox. These surveys will be conducted in accordance with the USFWS Standard <i>Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance</i> (2011). Specifically the survey</p>	Prior to start of construction	Once within 30 days of construction, unless a pre-construction survey results in new recommendations for further study and mitigation;	County of Tulare	Field survey by a qualified Biologist			

Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
						Initials	Date	Remarks
	will include the project site and a minimum of a 200-foot area outside of all project impact areas. The primary objective is to identify kit fox habitat features (e.g. potential dens and refugia) on the project site and evaluate their use by kit fox through the use of remote monitoring techniques such as motion-triggered cameras and tracking medium. If potential dens are not identified, no further action is required.		then mitigation should occur as recommended following coordination with Tulare County RMA					
BIO-13	(Avoidance) Should an active or potential kit fox den be detected within or immediately adjacent to the area of work during pre-construction surveys, the den shall not be disturbed or destroyed. In accordance with the USFWS, <i>Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance</i> (2011), a minimum 50-foot no-disturbance buffer area shall be established around potential and man-made (atypical) dens and a minimum 100-foot no-disturbance buffer area shall be established around known den sites. The Sacramento Field Office of the USFWS and Fresno Field Office of the CDFW shall be contacted immediately by phone and in writing to determine the best course of action, if required, and to initiate the take authorization/permit process.	Implemented only if sensitive species are encountered	Throughout construction	County of Tulare	Determination by qualified biologist			
BIO-14	(Minimization) Construction activities shall be carried out in a manner that minimizes disturbance to kit fox. Minimization measures include, but are not limited to: restriction of project-related vehicle traffic to established roads, construction areas, and other designated areas; inspection and covering of structures (e.g., pipes), as well as installation of escape structures, to prevent the inadvertent entrapment of kit	During construction	As needed during construction	County of Tulare	Determination by qualified biologist			

Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
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	foxes; restriction of rodenticide and herbicide use; and proper disposal of food items and trash.							
BIO-15	(Mortality Reporting) The Sacramento Field Office of the USFWS and the Fresno Field Office of CDFW will be contacted immediately by phone and notified in writing within three working days in case of the accidental death or injury of a San Joaquin kit fox during project-related activities. Notification must include the date, time, location of the incident or of the finding of a dead or injured animal, and any other pertinent information.	During Construction	Ongoing throughout construction	County of Tulare	Qualified biologist working with USFWS and/or CFW			
CULTURAL RESOURCES								
CUL-1	(Designated Cultural Resources Specialist) The Applicant shall retain a designated CRS who will be available to carry out mitigation measures related to cultural resources for the project. The CRS will meet or exceed the Secretary of the Interior's Professional Qualifications Standards for Archaeology (National Park Service 1983). The CRS will be qualified in site detection, evaluation of deposit significance, consultation with regulatory agencies, and plan site evaluation and mitigation activities.	During Construction	Ongoing throughout construction	County of Tulare	Determination by qualified archaeologist or paleontologist and consultation with County of Tulare			
CUL-2	(Cultural Resources Monitoring Plan) Prior to the start of permitted ground-disturbing activities, a Cultural Resources Monitoring Plan should be prepared by the CRS. The monitoring plan should include a description of the monitoring methodology, including when monitoring will be required, the authority of the monitor to halt construction should a discovery be made, contact information should a discovery be made, definition of site types typically present within the area, define the types of resources that would require that work be halted or redirected, provide a research design should a discovery be	During Construction	Ongoing throughout construction	County of Tulare	Determination by qualified archaeologist or paleontologist and consultation with County of Tulare; also, applicable Native American Tribe			

Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
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	made, provide the protocols for unanticipated discoveries (e.g., who to call and next steps for documentation), provide guidance in the event an Environmentally Sensitive Area (ESA) must be designated, review and approval protocols (e.g., define review periods for agencies and interested communities), and dispute resolution.							
CUL-3	(Cultural Resources Sensitivity Training) Prior to the start of ground disturbance, the construction crew should participate in on-site training on the proper procedures to follow if cultural resources are uncovered during the project excavations, site preparation, or other related activities. This training should include a comprehensive discussion of applicable laws and penalties under the law, samples or visuals of artifacts that might be found in the vicinity of the project site, a discussion of what such artifacts may look like when partially buried or wholly buried and then freshly exposed, a discussion of what prehistoric and historic-period archaeological deposits look like at the surface and when exposed during construction, and instruction that employees are to halt work in the vicinity of a discovery (within 50 feet). This information should be provided in an informational brochure that outlines reporting procedures in the event of a discovery and should be provided to all individuals working on-site.	During Construction	Ongoing throughout construction	County of Tulare	Determination by qualified archaeologist or paleontologist and consultation with County of Tulare. Also, applicable Native American Tribe			
CUL-4	(Cultural Resources Sensitivity Training) Prior to the start of ground disturbance, the construction crew should participate in on-site training on the proper procedures to follow if cultural resources are uncovered during the project excavations, site preparation, or other	During Construction	Ongoing throughout construction	County of Tulare	Determination by qualified archaeologist or paleontologist and			

Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
						Initials	Date	Remarks
	related activities. This training should include a comprehensive discussion of applicable laws and penalties under the law, samples or visuals of artifacts that might be found in the vicinity of the project site, a discussion of what such artifacts may look like when partially buried or wholly buried and then freshly exposed, a discussion of what prehistoric and historic-period archaeological deposits look like at the surface and when exposed during construction, and instruction that employees are to halt work in the vicinity of a discovery (within 50 feet). This information should be provided in an informational brochure that outlines reporting procedures in the event of a discovery and should be provided to all individuals working on-site.				consultation with County of Tulare. Also, applicable Native American Tribe			
CUL-5	(Unanticipated Discovery of Cultural Resources) In the event archaeological resources are unexpectedly encountered during ground-disturbing activities, work within 50 feet of the find shall halt and the project CRS be contacted immediately to evaluate the resource. If the resource is determined by the CRS to be prehistoric, then a Native American representative shall also be contacted to participate in the evaluation of the resource. If the CRS and/or Native American representative determines it to be appropriate, archaeological testing for CRHR eligibility should be completed. If the resource proves to be eligible for the CRHR and significant impacts to the resource cannot be avoided via project redesign, the CRS shall prepare a data recovery plan tailored to the physical nature and characteristics of the resource, per the requirements of the California Code of Regulations Section 15126.4(b)(3)(C). The	During Construction	Ongoing throughout construction	County of Tulare	Determination by qualified archaeologist or paleontologist and consultation with County of Tulare. Also, applicable Native American Tribe			

Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
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	data recovery plan shall identify data recovery excavation methods, measurable objectives, and data thresholds to reduce any significant impacts to cultural resources related to the resource. Pursuant to the data recovery plan, the CRS and Native American representative, as appropriate, should recover and document the scientifically consequential information that justifies the resource's significance. The lead agency shall review and approve the treatment plan and archaeological testing as appropriate, and the resulting documentation shall be submitted to the regional repository of the CHRIS, per California Code of Regulations Section 15126.4(b)(3)(C).							
CUL-6	(Compliance with HSC § 7050.5) No human remains are known to be present within the project site. However, the discovery of human remains is always a possibility during ground-disturbing activities. If human remains are found, the State of California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to PRC Section 5097.98. In the event of an unanticipated discovery of human remains, the County Coroner must be notified immediately. If the human remains are determined to be of Native American origin, the Coroner will notify the NAHC, which will determine and notify a MLD. The MLD has 48 hours from being granted site access to make recommendations for the disposition of the remains. If the MLD does not make recommendations within 48 hours, the landowner shall reinter the remains in an area of the property secure from subsequent disturbance.	During Construction	Ongoing throughout construction	County of Tulare	Determination by qualified archaeologist or paleontologist and consultation with County of Tulare. Also, applicable Native American Tribe			

Mitigation Monitoring and Reporting Program

Mitigation Measure		When Monitoring is to Occur	Frequency of Monitoring	Agency Responsible for Monitoring	Method to Verify Compliance	Verification of Compliance		
						Initials	Date	Remarks
GEOLOGY/ SOILS								
See Mitigation Measures CUL-1 through CUL-6								
HYDROLOGY AND WATER QUALITY								
HYD-1	The location of a structure within the special flood hazard area shall require compliance with the National Flood Insurance Program under FEMA and the special provisions of the Tulare County Flood Damage Prevention Ordinance.	Prior to start of construction	Ongoing throughout construction	County of Tulare	On-site Project Manager			
NOISE								
NOI-1	Internal combustion engines shall be equipped with a muffler of a type recommended by the manufacturer.	During Construction	Ongoing throughout construction	County of Tulare	On-site Project Manager			
NOI-2	Construction activities, excluding activities required to occur without interruption or activities that would pose a significant safety risk to workers or citizens, shall be limited to between the daytime hours of 7:00 a.m. and 7:00 p.m.	During Construction	Ongoing throughout construction	County of Tulare	On-site Project Manager			
NOI-3	Portable/stationary equipment (e.g., generators, compressors) shall be located at the furthest distance from the nearest residential dwelling.	During Construction	Ongoing throughout construction	County of Tulare	On-site Project Manager			
NOI-4	As directed by the County resident engineer, the contractor shall implement appropriate additional noise abatement measures including, but not limited to, siting the location of stationary construction equipment away from sensitive noise receptors to the greatest extent feasible, turning off idling equipment after no more than five minutes of inactivity, and rescheduling construction activity to avoid noise-sensitive days or times.	During Construction	Ongoing throughout construction	County of Tulare	On-site Project Manager			
NOI-5	Use alternative pile installation techniques (e.g., drilled piles) to the extent possible.	During Construction	Ongoing throughout construction	County of Tulare	On-site Project Manager			
TRIBAL CULTURAL RESOURCES								
See Mitigation Measures CUL-1 through CUL-6								



Attachment No. 6

RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD
VISALIA, CA 93277
PHONE (559) 624-7000
FAX (559) 730-2653

Aaron R. Bock
Reed Schenke
Sherman Dix

Economic Development and Planning
Public Works
Fiscal Services

REED SCHENKE, DIRECTOR
DIRECTOR

MICHAEL WASHAM, ASSOCIATE

DATE: November 26, 2024

SPECIAL USE PERMIT - CONSULTATION

To: Interested Agencies (see next page)

From: David Alexander, Project Planner III [Phone: (559) 624-7138 and Email: dalexander@tularecounty.ca.gov]

Subject: **Case No. Special Use Permit No. PSP 24-065 (Ref. PRC 23-066) concerning the creation of a 55 MW Solar Photovoltaic Power Plant, with a 55 MW BESS (Battery Energy Storage System),** (Applicant: Foxtail Solar, LLC., 17785 Center Court Drive, STE 200, Cerritos, CA 90703; Land Owner: Joe V. Cardoza III, 18839 Road 80, Tulare, CA 93274), on one APN (228-050-020) totaling approximately 475.5 acres, located at 18839 Road 80, Tulare, CA 93274, North of Octol Avenue, right adjacent to Octol Substation of SCE, within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture.

The Tulare County Resource Management Agency, Development Services Branch, has received an application for a land development permit. A copy of the application package is attached for your information. Please review this project and provide any comments and/or recommendations that you feel are appropriate, including any scientific or factual information that would be useful in our evaluation. Our office appreciates your time and assistance with this project review. Please direct all correspondence to the Project Planner and the Case Number referenced above for this project. To all local agencies wishing to make recommendations, all comments must be received by our office by **December 10, 2024**, in order to be considered during the review process. Please note that a separate notice will be sent regarding Native American Consultation, pursuant to Assembly Bill 52 ("AB 52"), Public Resources Codes §21080.1, §21080.3.1, and §21080.3.2. The following information checked below is also applicable for your consideration regarding this project:

☒ Please indicate in your response whether this department should prepare a Negative Declaration or Environmental Impact Report (EIR). In the event that an EIR is prepared, I will be in further contact with you as to the scope and content of the environmental information pertinent to your agency's statutory responsibilities.

Please note that Public Resources Code Section 21080(c) requires substantial evidence in the record to show a significant effect on the environment. Any recommendation for preparation of an EIR requires submittal of such evidence with your comments. If there is no such evidence, a Negative Declaration or Mitigated Negative Declaration may be prepared.

Recommendations or suggestions for changes or mitigation measures requested by agencies having jurisdiction by law over natural resources affected by the project must be accompanied by a proposed reporting or monitoring program for those changes or measures in accordance with Public Resources Code Section 21081.6.

☐ The Tulare County Resource Management Agency has determined that this project is Categorically Exempt from environmental review pursuant to Section 15303, Class 3, of the *Guidelines for Environmental Quality Act (CEQA Guidelines)* and therefore, the preparation of an environmental document is not necessary. However, if your organization has substantial evidence that would indicate to the contrary, please explain.

☐ The Tulare County Resource Management Agency has determined that this project is a Ministerial project, and is exempt from an environmental review pursuant to Section 15268 of the California Environmental Quality Act (CEQA), implemented through Tulare County Board of Supervisors Resolution Numbers 72-3900; 73-356; 73-1202; 74-1346; 74-2165; 75-2452; 77-2229; 78-2300; 81-1670; 83-390; 83-460; 86-1419; 87-228; 87-429; 87-1278; 89-850A; 90-0803; 91-0805; 93-0489; 95-0476; and 99-0479.

- ☒ Notice of a public hearing for this project will be mailed at least ten (10) days prior to the hearing. If your agency will be significantly affected by this project with respect to your ability to provide essential facilities and/or services, and your wish to receive notice of the public hearing, please state this in your response.

**CASE NO. SPECIAL USE PERMIT NO. PSP 24-065
CONSULTING AGENCY LIST**

TULARE COUNTY AGENCIES

- ☒ R.M.A. - Building Division
☒ R.M.A. - Code Compliance Division
☒ R.M.A. - Environmental Coordinator
☐ R.M.A. - Community Dev./Redevelopment Division
☒ R.M.A. - Flood/Permits/Subdivisions Division
☐ R.M.A. - Parks and Recreation Division
☐ R.M.A. - Building Services Division
☐ R.M.A. - General Services Division
☐ R.M.A. - Transportation/Utilities Division
☐ R.M.A. - Solid Waste Division
☒ H.H.S.A. - Environmental Health Services Division
☐ H.H.S.A. - HazMat Division
☒ Fire Chief (2 copies)
☐ Sheriff's Department - Visalia Headquarters
☐ Traver Substation
☐ Orosi Substation
☐ Pixley Substation
☐ Porterville Substation

- ☐ Agricultural Commissioner
☒ County Council
☐ Airport Land Use Commission
☐ Supervisor Townsend, District 5
☐ Assessor
☐ Rob Abrahamian

LOCAL AGENCIES

- ☐ Woodville Union Elementary School
☐ Porterville Unified School Districts
☐ _____ Irrigation Dist.*
☐ Woodville Pub Utility Dist.*
☐ Goshen Community Service District
☐ _____ Town Council*
☐ _____ Elem. School Dist*
☐ Tulare Unified School District
☐ City of Visalia
☐ County of _____ *
☐ Tulare Lake Basin Water Storage Dist*
☐ _____ Advisory Council*
☐ _____ Fire District*
☐ _____ Mosquito Abatement*
☐ _____ Kaweah Delta Water Cons. District*
☐ SJV Air Pollution Control Dist

FEDERAL AGENCIES

- ☐ Army Corps of Engineers
☐ Fish & Wildlife
☐ Bureau of Land Management
☐ Natural Resources Conservation Dist.
☐ Forest Service
☐ National Park Service

STATE AGENCIES

- ☐ Dept. of Fish & Wildlife Dist 4
☐ _____, DFG Area Biologist
☐ Alcoholic Beverage Control
☐ Housing & Community Development
☐ Reclamation Board
☒ Regional Water Quality Control Board - Dist. 5
☐ Caltrans Dist. 6*
☐ Dept. of Water Resources*
☐ Water Resources Control Board*
☐ Public Utilities Commission
☐ Dept. of Conservation
☐ State Clearinghouse (15 copies)
☐ Office of Historic Preservation
☐ Dept. of Food & Agriculture
☐ State Department of Health
☐ State Lands Commission
☐ State Treasury Dept. - Office of Permits Assist.
☐ Valley Kaweah Delta WCD Tulare ID

OTHER AGENCIES

- ☐ U.C. Cooperative Extension
☐ Audubon Society - Condor Research
☐ Native American Heritage Commission
☐ District Archaeologist (Bakersfield)
☐ TCAG (Tulare Co. Assoc. of Govts)
☐ LAFCo (Local Agency Formation Comm.)
☐ Pacific Bell (2 copies)
☐ GTE (General Telephone) (2 copies)
☐ P.G. & E. (2 copies)
☐ Edison International (2 copies)
☐ The Gas Company (2 copies)
☐ Tulare County Farm Bureau
☐ Archaeological Conservancy (Sacramento)



RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD
VISALIA, CA 93277
PHONE (559) 624-7000
FAX (559) 730-2653

Aaron R. Bock Economic Development and Planning
Reed Schenke Public Works
Sherman Dix Fiscal Services

REED SCHENKE, DIRECTOR
DIRECTOR

MICHAEL WASHAM, ASSOCIATE

DATE: November 26, 2024

SPECIAL USE PERMIT - CONSULTATION

To: Interested Agencies (see next page)

From: David Alexander, Project Planner III [Phone: (559) 624-7138 and Email: dalexander@tularecounty.ca.gov]

Subject: **Case No. Special Use Permit No. PSP 24-065 (Ref. PRC 23-066) concerning the creation of a 55 MW Solar Photovoltaic Power Plant, with a 55 MW BESS (Battery Energy Storage System),** (Applicant: Foxtail Solar, LLC., 17785 Center Court Drive, STE 200, Cerritos, CA 90703; Land Owner: Joe V. Cardoza III, 18839 Road 80, Tulare, CA 93274), on one APN (228-050-020) totaling approximately 475.5 acres, located at 18839 Road 80, Tulare, CA 93274, North of Octol Avenue, right adjacent to Octol Substation of SCE, within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture.

The Tulare County Resource Management Agency, Development Services Branch, has received an application for a land development permit. A copy of the application package is attached for your information. Please review this project and provide any comments and/or recommendations that you feel are appropriate, including any scientific or factual information that would be useful in our evaluation. Our office appreciates your time and assistance with this project review. Please direct all correspondence to the Project Planner and the Case Number referenced above for this project. To all local agencies wishing to make recommendations, all comments must be received by our office by **February 25, 2025**, in order to be considered during the review process. Please note that a separate notice will be sent regarding Native American Consultation, pursuant to Assembly Bill 52 ("AB 52"), Public Resources Codes §21080.1, §21080.3.1, and §21080.3.2. The following information checked below is also applicable for your consideration regarding this project:

☒ Please indicate in your response whether this department should prepare a Negative Declaration or Environmental Impact Report (EIR). In the event that an EIR is prepared, I will be in further contact with you as to the scope and content of the environmental information pertinent to your agency's statutory responsibilities.

Please note that Public Resources Code Section 21080(c) requires substantial evidence in the record to show a significant effect on the environment. Any recommendation for preparation of an EIR requires submittal of such evidence with your comments. If there is no such evidence, a Negative Declaration or Mitigated Negative Declaration may be prepared.

Recommendations or suggestions for changes or mitigation measures requested by agencies having jurisdiction by law over natural resources affected by the project must be accompanied by a proposed reporting or monitoring program for those changes or measures in accordance with Public Resources Code Section 21081.6.

☐ The Tulare County Resource Management Agency has determined that this project is Categorical Exempt from environmental review pursuant to Section 15303, Class 3, of the *Guidelines for Environmental Quality Act (CEQA Guidelines)* and therefore, the preparation of an environmental document is not necessary. However, if your organization has substantial evidence that would indicate to the contrary, please explain.

☐ The Tulare County Resource Management Agency has determined that this project is a Ministerial project, and is exempt from an environmental review pursuant to Section 15268 of the California Environmental Quality Act (CEQA), implemented through Tulare County Board of Supervisors Resolution Numbers 72-3900; 73-356; 73-1202; 74-1346; 74-2165; 75-2452; 77-2229; 78-2300; 81-1670; 83-390; 83-460; 86-1419; 87-228; 87-429; 87-1278; 89-850A; 90-0803; 91-0805; 93-0489; 95-0476; and 99-0479.

- ☒ Notice of a public hearing for this project will be mailed at least ten (10) days prior to the hearing. If your agency will be significantly affected by this project with respect to your ability to provide essential facilities and/or services, and your wish to receive notice of the public hearing, please state this in your response.

**CASE NO. SPECIAL USE PERMIT NO. PSP 24-065
CONSULTING AGENCY LIST**

TULARE COUNTY AGENCIES

- ☒ R.M.A. - Building Division
☒ R.M.A. - Code Compliance Division
☒ R.M.A. - Environmental Coordinator
☐ R.M.A. - Community Dev./Redevelopment Division
☒ R.M.A. - Flood/Permits/Subdivisions Division
☐ R.M.A. - Parks and Recreation Division
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☐ R.M.A. - Transportation/Utilities Division
☐ R.M.A. - Solid Waste Division
☒ H.H.S.A. - Environmental Health Services Division
☐ H.H.S.A. - HazMat Division
☒ Fire Chief (2 copies)
☐ Sheriff's Department - Visalia Headquarters
☐ Traver Substation
☐ Orosi Substation
☐ Pixley Substation
☐ Porterville Substation

- ☐ Agricultural Commissioner
☒ County Council
☐ Airport Land Use Commission
☐ Supervisor Townsend, District 5
☐ Assessor
☒ Tulare County Farm Bureau

LOCAL AGENCIES

- ☐ Woodville Union Elementary School
☐ Porterville Unified School Districts
☐ _____ Irrigation Dist.*
☐ Woodville Pub Utility Dist.*
☐ Goshen Community Service District
☐ _____ Town Council*
☐ _____ Elem. School Dist*
☐ Tulare Unified School District
☐ City of Visalia
☐ County of _____ *
☐ Tulare Lake Basin Water Storage Dist*
☐ _____ Advisory Council*
☐ _____ Fire District*
☐ _____ Mosquito Abatement*
☐ _____ Kaweah Delta Water Cons. District*
☒ SJV Air Pollution Control Dist

FEDERAL AGENCIES

- ☐ Army Corps of Engineers
☐ Fish & Wildlife
☐ Bureau of Land Management
☐ Natural Resources Conservation Dist.
☐ Forest Service
☐ National Park Service

STATE AGENCIES

- ☒ Dept. of Fish & Wildlife Dist 4
☐ _____, DFG Area Biologist
☐ Alcoholic Beverage Control
☐ Housing & Community Development
☐ Reclamation Board
☒ Regional Water Quality Control Board - Dist. 5
☐ Caltrans Dist. 6*
☐ Dept. of Water Resources*
☐ Water Resources Control Board*
☒ Public Utilities Commission
☐ Dept. of Conservation
☐ State Clearinghouse (15 copies)
☐ Office of Historic Preservation
☐ Dept. of Food & Agriculture
☐ State Department of Health
☐ State Lands Commission
☐ State Treasury Dept. - Office of Permits Assist.
☐ Valley Kaweah Delta WCD Tulare ID

OTHER AGENCIES

- ☐ U.C. Cooperative Extension
☐ Audubon Society - Condor Research
☐ Native American Heritage Commission
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☐ P.G. & E. (2 copies)
☒ Edison International (2 copies)
☐ The Gas Company (2 copies)
☐ Tulare County Farm Bureau
☐ Archaeological Conservancy (Sacramento)



RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD
VISALIA, CA 93277
PHONE (559) 624-7000
FAX (559) 730-2653

Aaron R. Bock Economic Development and Planning
Reed Schenke Public Works
Sherman Dix Fiscal Services

REED SCHENKE, DIRECTOR
DIRECTOR

MICHAEL WASHAM, ASSOCIATE

DATE: November 26, 2024

SPECIAL USE PERMIT - CONSULTATION

To: Interested Agencies (see next page)

From: David Alexander, Project Planner III [Phone: (559) 624-7138 and Email: dalexander@tularecounty.ca.gov]

Subject: **Case No. Special Use Permit No. PSP 24-065 (Ref. PRC 23-066) concerning the creation of a 55 MW Solar Photovoltaic Power Plant, with a 55 MW BESS (Battery Energy Storage System),** (Applicant: Foxtail Solar, LLC., 17785 Center Court Drive, STE 200, Cerritos, CA 90703; Land Owner: Joe V. Cardoza III, 18839 Road 80, Tulare, CA 93274), on one APN (228-050-020) totaling approximately 475.5 acres, located at 18839 Road 80, Tulare, CA 93274, North of Octol Avenue, right adjacent to Octol Substation of SCE, within the Rural Valley Lands Plan, with the Land Use Designation of Valley Agriculture.

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☒ Please indicate in your response whether this department should prepare a Negative Declaration or Environmental Impact Report (EIR). In the event that an EIR is prepared, I will be in further contact with you as to the scope and content of the environmental information pertinent to your agency's statutory responsibilities.

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**CASE NO. SPECIAL USE PERMIT NO. PSP 24-065
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- ☐ Pixley Substation
- ☐ Porterville Substation

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- ☒ County Council
- ☐ Airport Land Use Commission
- ☐ Supervisor Townsend, District 5
- ☐ Assessor
- ☒ Tulare County Farm Bureau

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- ☐ Porterville Unified School Districts
- ☐ _____ Irrigation Dist.*
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- ☐ Tulare Lake Basin Water Storage Dist*
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- ☐ Bureau of Land Management
- ☐ Natural Resources Conservation Dist.
- ☐ Forest Service
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- ☐ State Treasury Dept. - Office of Permits Assist.
- ☐ Valley Kaweah Delta WCD Tulare ID

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- ☐ Native American Heritage Commission
- ☐ District Archaeologist (Bakersfield)
- ☐ TCAG (Tulare Co. Assoc. of Govts)
- ☐ LAFCo (Local Agency Formation Comm.)
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- ☒ Edison International (2 copies)
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- ☐ Tulare County Farm Bureau
- ☐ Archaeological Conservancy (Sacramento)

RESOURCE MANAGEMENT AGENCY



5961 S. Mooney Blvd
Visalia, CA 93277
559-624-7000
615-3002

Aaron R. Bock
Reed Schenke
Sherman Dix

Economic Development and Planning
Public Works
Fiscal Services

REED SCHENKE, DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

MAJOR LAND USE ENTITLEMENT (DISCRETIONARY)

TYPE OF APPLICATION:

- | | | |
|---|---|---|
| <input type="checkbox"/> Development Agreement | <input type="checkbox"/> Review/Interpretation Request | <input type="checkbox"/> Variance- Flood |
| <input type="checkbox"/> Final Site Plan | <input type="checkbox"/> Revisions to a Parcel/Sub Map | <input type="checkbox"/> Variance-Building/Road Setback |
| <input type="checkbox"/> General Plan Initiation | <input checked="" type="checkbox"/> Special Use Permit (PC) | <input type="checkbox"/> Variance- Zoning |
| <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Specific Plan | <input type="checkbox"/> Zone Change Initiation |
| <input type="checkbox"/> Planned Development | <input type="checkbox"/> Tentative Parcel Map | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Planned Unit Development | <input type="checkbox"/> Tentative Subdivision Map | <input type="checkbox"/> Other _____ |

NOTE: APPLICANT AND PROPERTY OWNER NAMES MUST BE LISTED IDENTICAL TO HOW THEY ARE SHOWN ON YOUR GOVERNMENT ID

Applicant: Foxtail Solar, LLC.

Mailing Address 17785 Center Court Drive, Suite 200
City/Town Cerritos State CA Zip 90703
Phone _____ Cell 916-439-9975
E-Mail jungwoo8.kim@samsung.com
Signature 김정우

Property Owner: Joe V. Cardoza III

Mailing Address 18839 Road 80
City/Town Tulare State CA Zip 93274
Phone 559-936-3671 Cell _____
E-Mail Joe@jlcardoza.com
Signature [Signature]

Other Persons to be Notified: (Specify: Other Owner(s), Agent, Lender, Architect, Engineer, Surveyor)

Name/Title Debra La Verne Cardoza
Mailing Address 18839 Road 80
City/Town Tulare State CA Zip 93274
Phone 559-936-3675 Fax _____
E-Mail Laverne@jlcardoza.com

Name/Title Jaymie Brauer, QK
Mailing Address 5080 California Avenue, Suite 220
City/Town Bakersfield State CA Zip 93309
Phone (661) 616-2600 Fax _____
E-Mail jaymie.brauer@qkinc.com

Project Information:

Site Address(es): 18839 Road 80 City/Town: Tulare
Assessor's Parcel No(s): 228-050-020

CEQ 24-013	THIS SPACE FOR PERMIT CENTER STAFF USE ONLY	
Project Number: <u>PSP 24-065</u>	Supervisor District: <u>2</u>	Economic Development: _____
Current Zoning: <u>AE-40</u>	General Plan Land Use: <u>RVLP</u>	UAB/UDB/HDB/MSB: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Project Description <u>55MWac solar PV facility with battery storage</u>		
Agricultural Preserve (if applicable) - Preserve No. <u>1047</u>	Contract No. <u>4538</u>	
Filing Fee(s): <u>\$3,643.00</u>	Total Amount Paid: _____	Payment Type: _____
Date Received: <u>8/30/2024</u>	Existing Entitlements/References: <u>PRC 23-066</u>	
Application Received/Reviewed by: <u>Nick M.</u>		

PERMIT CENTER HOURS: MONDAY – THURSDAY 9:00 A.M. TO 4:30 P.M. FRIDAY 9 A.M. -11 A.M.

DISCRETIONARY LAND USE ENTITLEMENT APPLICATION

REQUIREMENTS, FEES AND INSTRUCTIONS *(Please use dark blue or black ink)*

The application form must be filled out completely and in every respect with all questions answered and all required attachments before the County can officially accept the application for processing. In the course of accepting and processing the application, Permit Center staff or the project planner may ask the applicant to clarify, correct or otherwise supplement the required information. The application may be filed with the Resource Management Agency Permit Center, at 5961 S. Mooney Blvd. Visalia, CA 93277. Phone No. (559) 624-7000. **IMPORTANT NOTICE: Fees are required at time of application submittal and are subject to change. Please verify the most up to date fees with Permit Center staff. The applicant is responsible for the payment of all fees associated with this application, including the initial fee/deposit and additional fees charged for processing. In addition, the applicant may be required to submit to the County additional deposits.**

Please see application fee information on Page 3 for specific and detailed fee information.

In addition to this application, please provide the following:

1. One (1) copy of the Development / Site Plan (showing entire parcel and location of the project)
2. Operational Statement: Please attach a detailed operational statement.
3. A signed Indemnification Agreement
4. "Will Serve" Letter from the appropriate off-site Community Water or Sewage Disposal provider.
5. Supplemental Information: Parcel Map Applications may require applications for exceptions and/or a waiver of the final map (if applicable). Certain applications pertaining to projects involving the raising of animals (dairies or other animals), Surface Mining or other more intense uses may require additional information and forms which can be obtained by contacting the Permit Center staff.

SUMMARY OF REQUIREMENTS FOR A LAND USE ENTITLEMENT APPLICATION

	Applicant	Staff
1. Completed Application	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Owner's Affidavit (<i>signed by property owner</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Filing Fee	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Development/Site Plan (1 copy) (additional copies may be required)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Indemnification and Cost Recovery Agreement (<i>separate attachment</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Supplemental Information (Review of "Identified Hazardous Waste Sites")	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Applicant's Request for Notification of Proposed Land Use Action	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Operational Statement (<i>if required by County</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. "Will Serve" letter from the appropriate off-site Community water and/or sewage disposal provider.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Water availability information for all existing and/or proposed on-site domestic wells. (<i>Note: If a domestic well on one parcel is going to supply water to another parcel, a ten foot wide well and pipeline repair and maintenance easement in favor of that parcel shall be shown on the parcel (tentative/ final) map and incorporated into the legal description prepared for the division of land.</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Request for Unused Fees Form (<i>Signed by the Applicant</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>

LAND USE ENTITLEMENT APPLICATION FEES

<u>Project Type</u>	<u>Fee Due at Application Submittal</u>
Development Agreement	\$1,303 deposit (then \$115/hourly charged)
Final Site Plan	\$3,415 deposit (then \$115/hourly charged)
General Plan Initiation	\$5,321 deposit (then \$115/hourly charged)
General Plan Amendment	\$10,321 deposit (then \$115/hourly charged)
Planned Development	\$8,304 deposit (then \$115/hourly charged)
Planned Unit Development	\$8,203 deposit (then \$115/hourly charged)
Review/Interpretation Request	\$300 deposit (then \$115/hourly charged)
Revisions to a Parcel/Sub Map	\$1,312 (for a Minor Revision) 1/2 of fee for Tent Map not less than \$1,354 (Major Revision)
Special Use Permit (PC)	\$3,005 deposit (then \$115/hourly charged) for CEQA Exempt projects, temporary uses, mobile home/additional housing \$5,750 deposit (then \$115/hourly charged) for New Special Use Permits and Amendments \$5,528 deposit (then \$115/hourly charged) for Expansions of Non-Conforming Uses *Note that Large Day Cares, Kennels, and Hazardous Waste Facilities have special fee amounts. Please contact Permit Center staff for any fee questions. Additional \$150 fee in SRA Areas
Specific Plan	\$5,321 deposit (then \$115/hourly charged)
Tentative Parcel Map	\$2,507 flat fee (for 1-4 lots) - Additional: \$168 for Waiver request, \$249 for exceptions to maps/lot lines, \$113 in SRA Areas; \$3,568 plus \$65 per lot (for more than 4 lots) (then \$115/hourly charged)
Tentative Subdivision Map	Deposit Varies based on number of lots (then \$115/hourly charged)
Variance - Flood	\$3,313 deposit (then \$115/hourly charged)
Variance - Building/Road Setback	\$1,801 flat fee
Variance - Zoning	\$3,490 deposit (then \$115/hourly charged)
Zone Change Initiation	\$3,333 deposit (then \$115/hourly charged) Note: Zone Initiation fee is deducted from Zone Change Fee
Zone Change	\$6,451 deposit (then \$115/hourly charged)

Additional Fees Due Prior to Hearing or Project Completion

CEQA (Environmental) Fees for 2024	Varies: Exempt: \$58, ND or MND: \$2,916.75, EIR: \$4,051.25
Recording Fee Deposit	\$150 (Including SB2 - Building Homes and Jobs Act Fee)
Compliance Monitoring Fee	\$130

Tax Clearance Fees for Parcel Maps/Lot Line Adjustments

Assessor Fee Per Map for Tax Estimates	\$63
Assessor Fee Per Map for Waived Maps	\$336
Tax Collector Fee	\$131 per Original APN

PLEASE FILL OUT THE FOLLOWING INFORMATION COMPLETELY.

1. Type of Project:

☐ Residential ☐ Commercial ☒ Industrial ☐ Agricultural

2. Present use of the project site (existing conditions, improvements, and/or development)?

Zoned as AE-40, the land has long been used for agricultural purpose. The landowner resides right next to the project site. Also, an SCE electrical substation is located at the southeastern corner of the site.

3. What is the project/proposed use of site? And when will the use begin? (*Please state exactly and in detail what the intended reason to be done on, or with, the property.*)

Applicant proposes to design, develop, construct, test, operate and maintain a utility scale 55MWac solar photovoltaic facility with 55MWac/220MWh battery energy storage system. The planned use is expected to begin in the first half of 2027

4. Is the project proposing to create new lots? No new lots proposed

If yes, how many? N/A

5. Is this project to resolve a violation? No

6. Liquid waste disposal (*please check appropriate box*): ☐ Existing ☐ Proposed

☐ Septic Tank-Leach Lines: Size of tank _____ gallons & length of lines _____ ft.

☐ Seepage Pit - Size _____

☐ Community System – Name: _____

☐ Aerobic tank - Size of tank _____

No liquid waste disposal system is proposed with this project.

7. Water supply (*please check appropriate box*): ☒ Existing ☐ Proposed

☐ Domestic Well – Size of pump _____ Gallons per minute _____

☒ Irrigation Well: Will serve letter from property owner attached.

☐ Irrigation District – Name: _____

☐ Private Water Company – Name: _____

☐ Community System – Name: _____

Note: A "Will Serve" letter must be provided from any off-site community water and/or sewage disposal provider and must be submitted as part of this application. In addition, water availability information for all existing and/or proposed on-site domestic wells must also be submitted with this application.

8. Source of energy (*please check appropriate box*):

☒ Electricity – Company name: SCE ☐ Natural Gas – Company name: _____

☐ Propane: Size of tank _____ Provider _____

9. Date property was acquired: 2024

10. Date use began on site: N/A

11. Parcel or Lot Size(s) (*in acres or sq. ft. as appropriate*): 475.5 acres
12. How much area of the total parcel or lot is being developed or utilized for the proposed use (acreage, square footage and percentage)?
Anticipate approximately 450 acres to be developed with the solar facility.
13. Will the development of the project be in phases? If yes, Yes ☐ No ☒
 please describe each phase and estimated time frames.
Single phase construction schedule
14. List and describe any other related permits and/or other public approvals required for this project, including those required by city, regional, state and federal agencies.
SJVAPCD - ATC/PTO and ISR, SWRCB - SWPPP, SCE - Interconnection Agreement
15. Parking: Specify the number of on-site parking spaces, including the location, size, and type of surfacing.
No permanent O&M building is proposed. No on-site paved permanent parking spaces are proposed.
 Specify number of loading space(s) and loading dock(s) None
16. Number of trips generated per day by each type listed below (*2 trips = 1 arrival and 1 departure*):
- | | | | |
|----------------------------|--------------------------------|-----------|-------------|
| Residents | <u>None</u> | Customers | <u>None</u> |
| Employees (including self) | <u>See Project Description</u> | Shipping | <u>None</u> |
| Deliveries | <u>See Project Description</u> | Other | <u>None</u> |

Residential Projects Only:

17. Please indicate the type of residential development (*conventional, mobile home, duplex, tri-plex*).

18. How many structures/buildings are being proposed? _____
19. How many units will there be? _____

20. Please provide the relationship of persons to the applicant in each dwelling unit.

****For Residential Projects and Tentative Parcel Map/Subdivision Map Projects please skip the next section and proceed to Page 9 to complete the Environmental Setting Questions and additional required forms.**

Commercial, Industrial and Agricultural Projects Only:

21. Employees: Indicate the total number of employees and include the number of shifts and number of employees per shift.
No full-time employee on-site. But the site will be visited periodically for equipment inspections and maintenance
22. Days and Hours of Operation (*if seasonal, include months of operation*):
7 days a week., 24 hours a day.

23. Please fill out the table below regarding your proposed project. Note: For proposed expansions please provide a copy of the existing use permit or approved site plan. Please describe additional information about the expansion on a separate sheet.

DESCRIPTION OF EXISTING USE AND NEW OR PROPOSED EXPANSION		
	EXISTING	NEW OR PROPOSED EXPANSION
Type of Use	Agriculture	Utility
Number of Employees		See section 21 above.
Type of Development	Crop cultivation	Solar electrical generation and BESS facility
Size of Development (sq. ft.)	20,712,780 SF	approx. 19,602,000 SF
Area of Development (sq. ft./acres)	475.5 acres	approx. 450 acres
Operating Hours & Days	N/A	24 hours a day, 7 days a week
Annual Production (tons, gallons, etc.)	NA	55 MW solar facility and 200 MW per hour (MWh) of BESS
Daily Trips (arrivals & departures) of : Employees Customers Deliveries Shipments		Construction/Operations: Employees: Avg. 200 daily / 420 annual (operations) Customers: None Deliveries: During construction Shipments: None
Equipment	Farming/agricultural related equipment	See Project Description for equipment description
Vehicles, by type	NA	semi trucks with equipment during construction, passenger vehicles/work trucks
Water usage (# of gallons per year)	NA	See Project Description for construction and operation water use.
Wastewater (# of gallons per year)	NA	NA

24. Are alcoholic beverages proposed to be served on site? ☐ Yes ☒ No
If Yes, please explain and state who will hold the license from the State Department of Alcohol Beverage Control. _____
25. Waste materials: Indicate types of all waste materials and the existing or proposed method for disposal.
At the end of the project life, equipment will be de-energized, placed in appropriate shipping containers, and secured in a truck for shipment off-site to be recycled or disposed. _____
26. Waste/Storm water: Indicate plans for reclamation for waste/stormwater (if applicable):
The majority of the site would be graded and unpaved allowing for ground absorption of stormwater and will retain stormwater on site. No O&M bldg proposed. No septic required. _____
Required permit or waiver from Regional Water Quality Control Board? Y ☒ N (If yes, attach report.)
If processing water is used for irrigating, specify # of acres, location (APNs) and property owner(s)

27. Access to major roads, railroads or waterways. _____
approx. 4 miles from Exit 81 of CA-99.
28. Drive approach(es) – Describe existing or proposed. Avenue 184 and Road 80

29. Signage – Describe existing and proposed signage for the proposed use. No existing signage on site.
Proposed signage with address and permanent numbers visible from the roadway, to meet the requirements of the fire department.
30. Landscaping – Describe existing and proposed landscaping on the site. No existing or proposed landscaping.
31. If the proposed use is for commercial development, indicate the type (*neighborhood, general, service, urban, rural, agricultural*), proposed use, and square footage of retail and/or wholesale sales area and/or storage area.
NA
32. If the proposed use is for institutional, indicate the type (*hospital, daycare, clinics, or similar use*), the major function, estimated occupancy and the community benefits to be derived from the project.
NA
33. If the proposed use includes manufacturing or processing, indicate the type of product, method of storage, process for distribution or selling, and whether the operation is for retail or wholesale.
NA
- Equipment used _____ Where operated _____
Distance from nearest off-site residence _____
Current production (# gallons or tons/yr) _____ Proposed production(# gallons or tons/yr) _____
34. If the proposed use includes storage or warehousing, indicate the type of materials to be stored on site and the size and description of the storage area, including existing and proposed fencing and screening.
55MWac battery energy storage system at 4 hours of continuous discharge, within modular outdoor enclosures.
Are any portable toilets stored on site? Yes / ☒ No If so, how many? _____
Where are portable toilets emptied and cleaned out? _____ By whom? _____
Are any of the stored materials hazardous? Yes / ☒ No
Any explosive materials? Yes / ☒ No Volatile materials? Yes / ☒ No Poisons? Yes / ☒ No
If so, please describe storage arrangements (containment, inside structure, signage, etc.) _____
- Does applicant have a Hazardous Materials Business Plan on file with the County Environmental Health Services Division? No
- Does applicant have current State and local permits for transporting hazardous materials? Yes / ☒ No
Describe _____
35. Type of equipment and/or machines to be utilized, including horsepower. Specify - powered by propane, gasoline, diesel or electricity (*if applicable*): Trenchers, backhoes, excavators, haul vehicles, compaction equipment, and water trucks Fork Lifts _____
36. Type and number of vehicles to be utilized (*if applicable*):
Pickups TBD Tractors _____
2-ton trucks TBD ARB compliant? ☒ Yes / No
18-wheelers TBD ARB compliant? ☒ Yes / No
Trailers TBD Other _____

Specific Types of Projects (Applicable only to Cell Tower, Solar Projects, Confined Animal Operations and Assemblage of People applications):

37. If the proposed use is for a telecommunications/cell tower, indicate the type, height, size of lease area and the number of receivers proposed.

No telecommunications/cell tower is proposed. The facility would utilize antennas to access the local SCADA network for remote maintenance and operation of the facility.

Distance from nearest residence _____ Distance from public road _____

NOTE: Please provide map of cell tower locations within 10 mile radius.

38. If the proposed use is for a solar facility, describe whether power will be generated -

For use on the site ☐ or back to the grid ☒

Panel type Photovoltaic Square footage or acreage 450 acres

Ground mounted ☒ Roof-mounted ☐ Amount of power to be generated 55MW

39. If the proposed use is for an animal operation, specify the types of animals and their maximum number.

N/A

Note: Dairies and Other Concentrated Animal Raising Operations require special application forms.

40. If the proposed use will include facilities for an assemblage of people (in a church, auditorium, or other structure, or in an open area), inside/outside (tent, canopy or building), indicate the seating capacity, including whether it is fixed or loose seating, and the number of tables with seating.

N/A

Proposed days (weekends or weekdays?) _____ Proposed # of events/year _____

Proposed Number of Commercial Events: _____

Expected # of attendees _____ Employees (including self): _____

Distance to lot lines _____ Distance to nearest off-site residence _____

Proposed entertainment _____ Amplification type _____

Hours of events - Setup _____ Event(s) _____ Cleanup _____

of parking spaces _____ On-site parking area size _____ Surface _____

Off-site parking arrangements, if any: _____

Fencing - Type _____ Location _____

Proposed # of security guards (Need 1 for each 100 attendees if no alcohol served or 2 for each 100 if alcohol is served): _____

Will alcohol be served? Yes ☐ No ☒

If yes, who holds the ABC license? _____

Restroom arrangements: ☒ Portable Toilets (Need 1:50 people) ☐ Restrooms (1:100 people)

Number Provided Portable toilets will be provided during construction. No facility is necessary during operation.

Number of hand wash sinks _____ (If portable toilets, need 1 hot water dispenser for every 15 food handlers).

Food Provider or Caterer: _____

ENVIRONMENTAL SETTING

41. Describe the project site, prior to the proposed use, including all above and below ground developed improvements (*residences, outbuildings, barns, sheds, covers, shop buildings, septic tank-leach line systems, domestic/agricultural wells, fuel storage tanks, etc.*), including the size of each.

undeveloped agricultural land with no structures on site.

42. Please describe and indicate the slopes and general terrain of the subject site (fairly level, on bluff, hillside with outcroppings, etc.): The topography generally slopes east to southwest, between 0.1% to 1%.
43. Trees: Please identify the type and size of any large trees on site.
None. The site has historically been agriculturally cultivated.
44. Water bodies/courses: Identify the type and location of any on-site or nearby water bodies/courses (*rivers, canals, ditches, streams, creeks, ponds etc.*).
Two drainage basins and an irrigation canal are present. These water features will be avoided and not impacted.
45. Describe the character and land use of the surrounding properties (orchards, vineyards, row crops, pasture, open space, water courses, railroads, roads, rural residential, subdivisions, commercial, schools, churches, vacant, city or county boundary):

<u>DIRECTION</u>	<u>CHARACTER/LAND USE</u>
North	Agriculture, Dairy (zoning: AE-40)
South	Agriculture, SCE Substation (zoning: AE-40)
East	Agriculture (zoning: AE-40)
West	Agriculture (zoning: AE-40)

46. Fire Suppression:
Number of Hydrants on site None Hydrant(s) off site None Distance N/A
Storage tank on site for fire suppression (requires Fire Department connection) Size yes
47. Will the project require the development of public service *facilities (roads, sewer lines, water lines, etc.)*? If so, describe the required development:
No.
48. Provide any additional information that may be helpful in evaluating this request. (*Use the back of this form or attach separate sheet, if needed.*)
see the attached Project Description for more details.

**SUPPLEMENTAL INFORMATION FOR
APPLICATION OF ANY DEVELOPMENT PROJECT**

HAZARDOUS WASTE AND SUBSTANCES STATEMENT:

Per California Government Code Section 65962.5(f), before the County accepts as complete an application for any development project, the applicant or owner shall consult the State's lists of hazardous waste facilities, shall submit a signed statement to the County indicating whether the project is located on a site that is included on any of the lists. The "Identified Hazardous Waste Sites" list may be viewed on the web at <http://www.envirostor.dtsc.ca.gov/public> or reviewed at the Resource Management Agency Permit Center, 5961 South Mooney Blvd., Visalia, California.

Before any application can be accepted as complete by the Tulare County Resource Management Agency, the owner of the subject property, or the owner's authorized agent, must complete this form.

STATEMENT:

I have reviewed the "Identified Hazardous Waste Sites" list (which may be viewed on the web at <http://www.envirostor.dtsc.ca.gov/public>) dated July 25, 2024, and state that:

"The site(s) of the project subject to this application ___ is / ___ is not
on the "Identified Hazardous Waste Sites" list."

(If the site is on any of hazardous waste facilities lists, the applicant shall inform the County of which list, the date of the list, the regulatory identification number of the site on the list and corrective measures that will be taken to remove the site from the State list.)

CERTIFICATION:

I hereby certify that the information furnished herein presents to the best of my knowledge and belief, true and correct facts, statements, and information, and that I am the owner, or the authorized agent of the owner, of the subject property.

Signed: 김재우

Dated: August 28, 2024

OWNER'S AFFIDAVIT
(Must be signed by property owner)

STATE OF CALIFORNIA)
COUNTY OF TULARE)

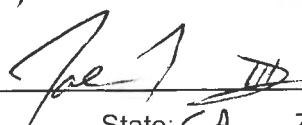
SS.

I, (We,) the undersigned, say:

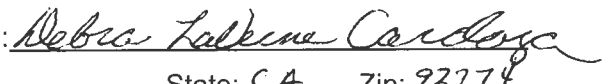
I (We) own property involved in this application and I (we) have completed this application and other documents and maps required hereby to the best of my (our) ability and the statements and information above referred to are, in all respects, true and correct to the best of my (our) knowledge and belief. I (We) declare under penalty of perjury that the foregoing is true and correct.

Executed on August 28, 2024, at Tulare, CA

Property Owner:

Name: Joe V Cardoza III Signature: 
Address: 18839 Rd 80, Tulare State: CA Zip: 93274

Optional – additional property owner:

Name: Debra LaVerne Cardoza Signature: 
Address: 18839 Rd 80 State: CA Zip: 93274

If there is an agent, title company, or prospective buyer who desires notification of the action taken on this application, please enter name here.

Name: _____
Relationship: _____
Address: _____
State: _____ Zip: _____
Telephone: _____
FAX No.: _____

Signed: _____ Date: _____

APPLICANT(S) REQUEST FOR NOTIFICATION OF PROPOSED LAND USE ACTION

NOTICE:

Under Section 65945(a) of the California Government Code, at the time of filing an application for a development permit, the applicant may make a written request to receive notice from the County of a proposal to adopt or amend any of the following plans or ordinances which may affect the proposed development permit:

1. A General Plan
2. A Specific Plan
3. A Zoning Ordinance
4. An Ordinance affecting building permits or grading permits

The applicant shall specify, in written request, the types of proposed actions for which notice is requested. Prior to taking any of those actions, the County is required to give notice to any applicant who has requested notice of the type of action proposed and whose development project is pending before the County if the County determines that the proposal is reasonably related to the applicant's request for the development permit. Notice shall be given only for those types of actions which the applicant specifies in the request for notification.

REQUEST:

☒ I hereby request under Section 65945(a) for the following types of actions (see above). Circle those that apply:

① 2 ③ ④

☐ I hereby waive notice under Section 65945(a).

I understand that any rights to notice under Section 65945(a) will lapse at the time that final action is taken on my development project.

Signed: 김정우
(applicant or authorized agent)

Dated: August 28, 2024

Permit No.: _____

The County of Tulare
“INDEMNIFICATION AND COST RECOVERY AGREEMENT”
must accompany this application

Please download or print out the form from the
County Web Site
(located with the list of land use applications).

The Indemnification and Cost Recovery Agreement
must be filled in and signed by the applicant and must be
submitted as part of any land use application requiring
discretionary review by the County.

This Agreement must be signed by the Applicant

Please sign the Agreement in blue ink (preferred)
and submit the original, signed document with the appropriate
land use application.

WITHDRAWAL OF APPLICATION

Should you, at any time during the processing of your application, wish to withdraw your application and request a refund of fees paid, you may do so by forwarding a letter to the Resource Management Agency making that request. Please state clearly that you no longer wish to proceed with your land use project (*state the project number*), and that you are requesting a withdrawal of your project and a refund of any fees that have not been expended for the processing of your application.

Please date and sign the letter and include a mailing address where you would like any refund of fees (if applicable) to be mailed. Forward the request to the attention of the project planner.

REQUEST FOR REFUND OF FEES

Resource Management Agency
5961 S. Mooney Blvd.
Visalia, CA 93277

Project Number: _____

Please refund any unused fees associated with this application to the designated name and address below.

Jung Woo Kim

(please print name)

17785 Center Court Drive Suite 200

(Street Address, Suite/Apt. No.)

Cerritos CA 90703

(City, State, Zip)

김정우

Signature

August 28, 2024
Date

ATTACHMENT C
To Administrative Regulation 49

COUNTY OF TULARE
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Application or Solicitation Number: _____
Application or Solicitation Title: _____

Was a campaign contribution, regardless of the dollar amount, made to any member of the Tulare County Board of Supervisors or to any County Officer, within the last 12 months, by the applicant, or, if applicable, any of the applicant's proposed subcontractors or the applicant's agent or lobbyist?

Yes _____ No V

If no, please sign and date below.

If yes, please provide the following information:

Applicant's Name: _____

Contributor(s) or Contributors Firm's Name: _____

Contributor(s) or Contributor Firm's Address: _____

Is the Contributor: *(check applicable boxes)*

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

The Applicant

Subcontractor

The Applicant's agent/ or lobbyist

Yes

Yes

Yes

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

No

No

No

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Note: Under California law as implemented by the Fair Political Practices Commission, campaign contributions made by the Applicant and the Applicant's agent/lobbyist who is representing the Applicant in this application or solicitation must be aggregated together to determine the total campaign contribution made by the Applicant.

Identify the Board of Supervisors Member(s) and County Agency Officer(s) to whom you, your subcontractors, and/or agent/lobbyist made campaign contributions, within the last 12 months, the name of the contributor, the dates of contribution(s) and dollar amount of the contribution. Each date must include the exact month, day, and year of the contribution.

Name of Board of Supervisors Member or County Agency Officer: _____

Name of Contributor(s): _____

Date(s) of Contribution(s): _____

Amount(s): _____

(Please add an additional sheet(s) to identify additional Board Members or County Agency Officer to whom you, your subconsultants, and/or agent/lobbyist made campaign contributions)

By signing below, I certify that the statements made herein are true and correct. I also agree to disclose to the County any future contributions made to Board Members or County Agency Officers by the applicant, or, if applicable, any of the applicant's proposed subcontractors or the applicant's agent or lobbyist after the date of signing this disclosure form, and within 12 months following the approval, renewal, or extension of the requested license, permit, or entitlement to use.

August 28, 2024

Date

김정우

Signature of Applicant

Jung Woo Kim

Print Firm Name if applicable

Print Name of Applicant

Project Description – Foxtail Hybrid Solar Project

Foxtail Hybrid Solar Project (project) proposed by Foxtail Solar, LLC. (Applicant) would construct and operate 55-megawatt (MW) photovoltaic solar generation facility and a 55 MW battery energy storage system (BESS) at 4 hours of continuous discharge on an approximate 475.5-acre site in Tulare County, California (Figure 1 and Figure 2).

1. Project Characteristics

1.1. Location

The project site consists entirely of a privately-owned 475.5-acre undeveloped parcel. The land is under an option to lease agreement between the property owner and the project proponent. The site consists of Assessor Parcel Number (APN) 228-050-020. The project proposes to develop approximately 450 acres of the 475.5-acre parcel (Figure 3).

The project site is generally located on the northwest corner of Avenue 184 and Road 80. The project is within the Paige and Taylor Weir USGS Quad and Section 5, Township 21S Range 24E, Mount Diablo Base and Meridian (MDB&M). The project site is under Williamson Act contract and is located in Zone A Special Flood Hazard Area per FEMA.

1.2. Surrounding Properties

North – Agriculture developed land improved with operating dairies and accessory structures zoned AE-40 (Exclusive Agriculture, 40-acre minimum).

East – Agricultural land zoned AE-40.

South- Agricultural land zoned AE-40 and a Southern California Edison (SCE) electrical substation.

West- Agricultural land zoned AE-40.

1.3. General Plan and Zone District

The property is designated Valley Agriculture in the Tulare County General Plan and is appropriately zoned AE-40.

2. Entitlements

The project will require the following entitlement:

2.1 Special Use Permits

Pursuant to Sections 16.II of Tulare County Zoning Ordinance, solar facilities and battery energy storage system are permitted on properties zoned AE-40, subject to approval of a Special Use Permit.

2.2. Williamson Act Contract

County of Tulare Board of Supervisors Resolution No. 2013-0104 adopted policies regarding siting of utility scale solar facilities on agricultural land and land subject to a Williamson Act land use contract (Contract). Should County of Tulare staff determine that the proposed project does not meet the criteria under Resolution 2013-0104, then cancellation of the Contract will be required. Cancellation findings will be made pursuant to Government Code 51282(c) where the cancellation to allow a renewable energy generator is in the public interest.

3. Project Components:

The Project proposes to construct and operate 55-megawatt (MW) photovoltaic solar generation facility and a 55 MW battery energy storage system (BESS) on approximately 45 ac. See Figure 3 and Figure 4.

3.1. Panels

The Project would install approximately 108,344 single-axis tracker solar panels on the site. The layout of the single axis tracker solar panels will be in an east-west direction. The maximum height of the would be up to 10 feet above grade at the beginning and end of each day. Each solar panel would be attached to embedded piers using a support structure. Module layout and spacing is typically optimized to balance energy production versus peak capacity and depends on the sun angles and shading due to the surrounding horizon of the site. The modules would typically be mounted with the longer side-oriented east to west across the tracker system's north-south axis. Individual arrays of modules would be combined to generate the total plant capacity.

3.2 Electrical Collector System and Inverters

The AC-DC electrical collection system includes all cables and combiners that collect electricity from the panels, delivers it to the inverters, collects it from the inverters, and ultimately delivers it to the Project switching station(s). The collection system would likely be installed along internal access roads to collect power from the rows of modules and deliver it to the switching station. This collection system would likely be installed in subsurface trenches, though in some areas of the site, part or all the collection system may be housed in above-grade raceways mounted on supports approximately 24-36 inches above ground level. The collection system would be rated at between 1,000-2,000 volts DC until it reached the inverters and a 33 kV AC intermediate voltage system between the inverters and the project switching station.

The Project would use a typical unmanned field control system. The controls generally include a field supervisory controller in a central location and local microprocessor controllers connected to each tracker, if trackers are to be used. The field control system monitors solar insolation, wind velocity, and tracker performance and status, and communicates with all the local microprocessor controllers. When the appropriate conditions exist, the field supervisory controller initiates the trackers' daily tracking of the sun, and at the end of the day stows the trackers in the solar array.

The DC electricity produced by the solar panels is converted to three-phase alternating current by a series of inverters. The solar facility and BESS would each require up to 16 inverters. Alternating current is the type of electricity usable by the electric utility and is the form required to connect to

the transmission system. The inverter pad equipment includes a transformer that steps up the electricity in its new form to an output voltage of 66 kV. This electricity is then transmitted via the medium voltage collection system to the switching station.

3.3 Battery Energy Storage System (BESS)

As proposed, the proposed project includes a BESS that would be located within the project footprint. The BESS would encompass a maximum of approximately 3.43 total acres.

The BESS, would be installed/constructed on the project site and would have appropriate fire suppression systems built to applicable state and local code requirements. The final design would include appropriate containment features (secondary containment) to prevent the escape of liquids or spills from the BESS site.

The BESS would be contained within an outdoor-rated steel enclosure and electrically connected to the inverters. The modular container stacks would be set on a concrete or steel pile foundation and would be approximately 8 feet wide by 72 feet long by 11 feet high. The proposed BESS would be designed, constructed, operated, and maintained in accordance with applicable industry best practices and regulatory requirements, including compliance with the latest National Fire Protection Association (NFPA) fire safety codes and fire rating in conformance with Tulare county standards.

The BESS would use one of several commercially available lithium ion (Li ion) technologies, though alternatives may be considered (such as flow batteries). Due to the rapidly changing technology in the battery industry, it may be more efficient, environmentally conscious, and economical, to use a then-current technology.

As planned, the BESS would consist of self-contained battery storage modules placed in racks, switchboards, inverters, transformers, controls, and integrated heating, ventilation, and air conditioning (HVAC) units, all enclosed in one or more buildings or in prefabricated metal modular container stacks. Potential hazards associated with BESS include increased potential for electrical shock and chemical release associated with the batteries used. The BESS would have fire suppression systems that would have a fire rating and built to applicable State and local code requirements. Also, implementation of established construction controls and safety procedures would reduce the risk of hazardous materials spills and releases.

The proposed battery energy storage system would be designed, constructed, operated and maintained in accordance with applicable industry best practices and regulatory requirements, including fire safety standards.

3.4 Point of Interconnection and Interconnection Agreement

The project's point of interconnection will be connecting directly to the existing 66 kV transmission line that runs to the adjacent SCE substation.

The project plans to negotiate and execute a Generator Interconnection Agreement (GIA) with SCE.

4. Construction Activities

The construction activities for the proposed Project fall into three main categories: (1) site grading and earthwork; (2) solar array construction; and (3) electrical interconnection to transmission owner infrastructure. Construction of the Project is anticipated to take up to 18 months, starting in Q4 2025 and completed by Q2 2027. Construction would primarily occur during daylight hours, Monday through Friday. Additional hours/days may be necessary to facilitate the schedule.

The construction workforce would consist of laborers, craftsmen, supervisory personnel, support personnel, and construction management personnel. The average workforce is expected to be approximately 100 construction, supervisory, support, and construction management personnel on-site during construction. The on-site workforce has been conservatively estimated to peak at approximately 200 individuals for short periods of time, which is typically one week.

Beginning work on the Project site would involve preparing the land for installation of arrays, related infrastructure, access driveways, and temporary construction staging areas. Prior to initial construction mobilization, preconstruction biological clearance surveys would be performed, and sediment and erosion controls would be installed in accordance with an approved Stormwater Pollution and Prevention Plan (SWPPP) to reduce potential impacts related to erosion and surface water quality. Stabilized construction entrance and exits would be installed at driveways to reduce tracking of sediment onto adjacent public roadways.

Site preparation would involve the removal and proper disposal of existing vegetation and debris that would unduly interfere with Project construction or the health and safety of onsite personnel. Dust minimizing techniques would be employed, utilizing “mow-and-roll” vegetation clearance strategy, placement of wind control fencing, application of water, and application of dust suppressants. Conventional grading would be minimized to the maximum extent possible to reduce unnecessary soil movement that may result in dust. As the ground is relatively flat, minimal, if any grading is anticipated. Land-leveling equipment, such as a smooth steel drum roller, would be used to even the surface of the ground and to compact the upper layer of soil to a value recommended by a geotechnical engineer for structural support. Trenching would be required for placement of underground electrical and communications lines, and may include the use of trenchers, backhoes, excavators, haul vehicles, compaction equipment and water trucks.

Initial construction water usage would be in support of site preparation and grading activities. During earthwork for grading of access road foundations, equipment pads and project components, the main use of water would be for compaction and dust control. Smaller quantities of water would be required for preparation of the concrete required for foundations and other minor uses. Subsequent to the earthwork activities, water usage would be used for dust suppression and normal construction water requirements that are associated with construction of the building, internal access roads, and solar arrays.

4.1 Electrical Interconnection to Transmission Owner Infrastructure

The Project includes a point of interconnection to an existing SCE transmission line as illustrated on the site plan (Attachment 2). The generated electricity will be received at the existing SCE substation.

4.2 Telemetry requirements

Real-time telemetry will be required. In order to meet the telemetry requirements SCE is planning to utilize a new method telemetry, which utilizes a centralized remote terminal unit (RTU) concept.

4.3 Construction Water Use

Water needed for construction is expected to be trucked from a nearby well on the land adjacent to the project site. Each truck typically holds approximately 4,000 gallons of water. The Project construction is estimated to occur over an 18 month period. Construction water demands are estimated to be approximately 0.735-acre feet per MWac consumed during the 18month construction period totaling approximately 40.43 acre feet of water for dust control, site preparation, and miscellaneous construction purposes. The Applicant has obtained a will serve letter from property owner to provide the water during construction and operation.

Initial construction water usage would be in support of site preparation and grading activities. During earthwork for grading of access road foundations, equipment pads and project components, the main use of water would be for compaction and dust control. Smaller quantities would be required for preparation of the concrete required for foundations and other minor uses. Subsequent to the earthwork activities, water usage would be used for dust suppression and normal construction water requirements that are associated with construction of the building, internal access roads, and solar arrays.

4.4 Operation and Maintenance Activities

The Project will be remotely monitored. The facility's regular maintenance program would be largely conducted on-site during daytime hours as a safety precaution. Equipment repairs would typically take place in the early morning or evening when the plant is producing the least amount of energy. Key program elements include:

- Responding to plant failures and emergencies in a timely manner.
- Maintaining and managing a pre-qualified group of routine maintenance and repair firms who can address the operational and maintenance needs throughout the life of the facility.
- Creating an optimized cleaning schedule to be more responsive to location and type of installation.
- Maintaining an inventory of spare parts to facilitate timely repairs to maintain plant output.
- Using trouble-ticketing to effectively record, track and escalate all maintenance problems.
- Conducting on-site maintenance as required to clear weeds, grass and ground cover for ground-mount systems.

Prudent security measures would be taken to ensure the safety of the public and facility. The proposed project would be secured by a chain-link fence along all borders with locking gates at

the specified points of ingress and egress. As proposed, the fence is anticipated to be a standard 7 feet in height, topped with one or two strands of barbed wire. Off-site security personnel may be dispatched during nighttime hours or be on-site depending on security risks and operating needs. The facility may use security lighting for both normal and emergency conditions. If used, lighting would be designed to provide the minimum illumination needed to achieve safety and security and would be downward-facing and shielded to focus illumination on the desired areas only.

The project site would produce a small amount of waste associated with maintenance activities. PV solar system wastes typically include broken and rusted metal, defective or malfunctioning modules, electrical materials, and empty containers and other miscellaneous solid materials, including typical household refuse generated by workers. Most of these materials would be collected and delivered back to the manufacturer for recycling. The project estimates up to 420 trips per year for security, maintenance, and panel washing activities.

4.5 Operations Water Use

The PV panel surfaces may be washed seasonally to increase the average optical transmittance of the flat panel surface. Panel washing is expected to take three days to complete per wash, up to four times per year or a total of 12 days per year to complete. Additional staff up to three people would be required during panel washing and are expected to be hired from the local community. A water truck with mounted sprayers will drive between the arrays to clean the panels.

It takes approximately 1 gallon of water to clean each panel. Long-term operational water demand is not expected to be more than 0.33 acre-feet, primarily to support PV panel washing activities, which is anticipated to occur 2 to 4 times a year, as needed. Therefore, a total of approximately 1.33 acre-feet of water is anticipated per year, based on a four times a year maintenance schedule. Water for panel washing will be taken from the onsite well. The Applicant has obtained a will service letter from the property owner .

4.6 Decommissioning

The project proponent expects to sell the renewable energy produced by the project under the terms of a long-term Power Purchase Agreement (PPA) or directly into the wholesale market. The useful life of the project facility is anticipated to be up to 35 years; however, the Project proponent may, at its discretion, choose to extend the life of the facility with updated technology and re-power, or decommission and remove the system and its components. If and when a decommissioning event occurs, the project site would be reverted to its original state, and could then be converted to other uses in accordance with applicable land use regulations in effect at that time.

It is anticipated that during project decommissioning project structures would be removed from the ground on the project site. Above-ground equipment that would be removed would include module posts and support structures, on-site transmission poles that are not shared with third parties and the underground collection system within the project site, inverters, transformers, electrical wiring, equipment on the inverter pads, and related equipment and concrete pads. The substation would be removed if it is owned by the project, however if a public or private utility assumes ownership of the substation, the substation may remain on-site to be used as part of the

utility service to supply other applications. Project roads would be restored to their pre-construction condition unless the landowner elects to retain the improved roads for access throughout that landowner's property. The area would be thoroughly cleaned and all debris removed. As discussed above, most materials would be recycled to the extent feasible, with minimal disposal to occur in landfills in compliance with all applicable laws. A collection and recycling program would be executed in the event system components are manufactured with hazardous materials.

A collection and recycling program would be executed to promote recycling of project components and minimize disposal of project components in landfills. All decommissioning and restoration activities would adhere to the requirements of the appropriate governing authorities and in accordance with all applicable federal, state, and county regulations. The project proponent expects a secondary market for PV modules to develop over time. Although energy output may diminish, PV modules are expected to continue to have a productive life and can be decommissioned from a prime location or re-commissioned in another location.

- Develop a viable source of clean energy to assist California and its utilities in fulfilling California's Renewable Portfolio Standard (RPS) Program. In October 2015, Governor Brown signed into law Senate Bill 350, which establishes a new RPS for all electricity retailers in the state. Electricity retailers must adopt the new RPS goals of 50 percent of retail sales from renewables by the end of 2030 and 100% by 2040.
- Use proven and established PV technology that is efficient and requires low maintenance.

5. Additional Permits

It is understood that additional permits will be required by the County, other local and State regulatory agencies, and public utility entities. These permits can include, but not be limited to the following:

- County of Tulare – Grading Permit and Building Permit
- San Joaquin Valley Air Pollution Control District (SJVAPCD) – Authority To Construct/Permit to Operate (ATC/PTO), Indirect Source Review (ISR)
- State Water Resources Control Board (SWRCB) – Stormwater Pollution and Prevention Plan (SWPPP)
- SCE – Interconnection Agreement

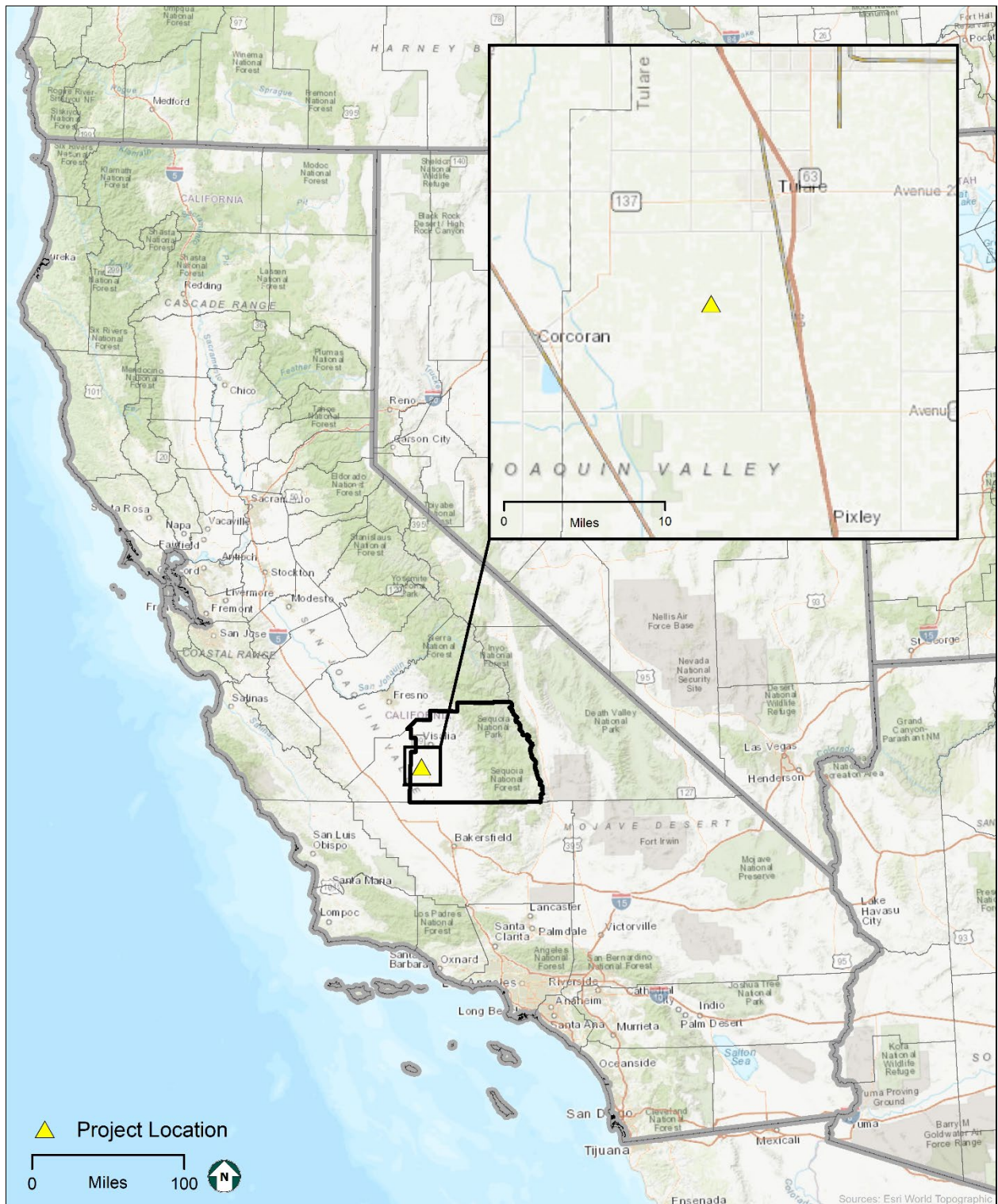
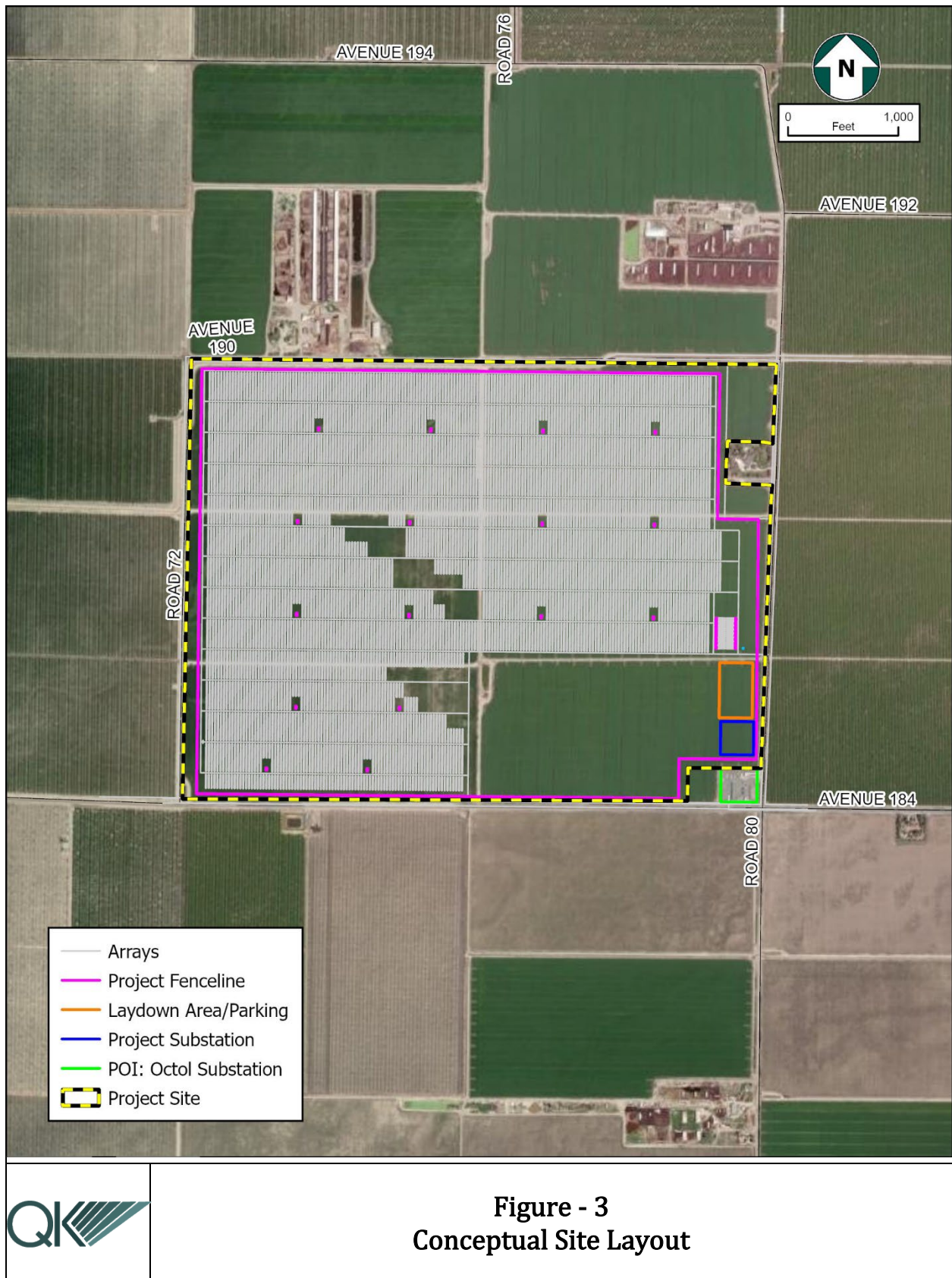


Figure - 1
Regional Map



Figure 2
Project Area



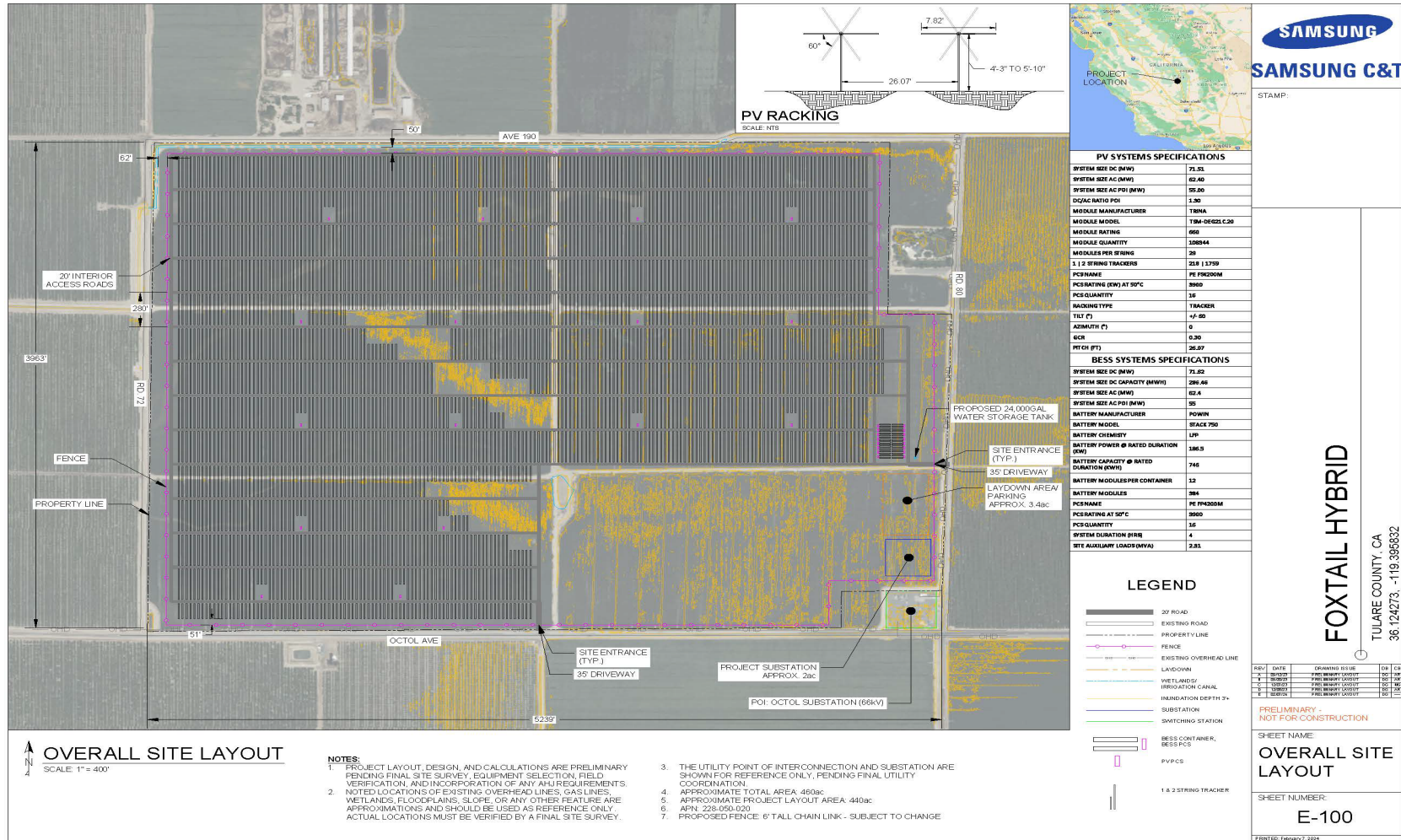


Figure 4
Project Site Plan

August 19, 2024

To: Tulare County Resource Management Agency

Fr: Joe Cardoza, 18839 Road 80, Tulare, California 93274

Re: Water supply for the construction and operation of Foxtail Hybrid Solar by Foxtail Solar, LLC

I have been requested by the project proponent if my water entitlements will allow me to provide water for the construction and operation of this solar project. Construction water demands are estimated to be approximately 0.735-acre feet per MWac consumed during the 18-month construction period totaling approximately 40.43-acre feet of water for dust control, site preparation, and miscellaneous construction purposes.

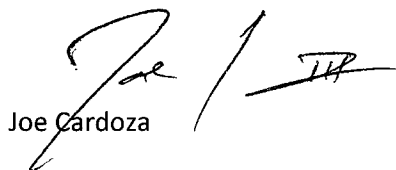
Long-term operational water demand is not expected to be more than 0.33 acre-feet, primarily to support PV panel washing activities, which is anticipated to occur 2 to 4 times a year, as needed. Therefore, a total of approximately 1.33 acre-feet of water is anticipated per year, based on this maintenance schedule.

In addition, a 24,000-gallon water tank is proposed, and water will be required to maintain water levels within the tank for the life of the project.

Pending execution of a final contract with Foxtail Solar LLC., I hereby confirm that I can provide sufficient water to the project during construction and operations from a well in close proximity to the solar facility.

Please feel free to contact me at 559) 936-3671, if you have any questions.

Joe Cardoza

A handwritten signature in black ink, appearing to read 'Joe Cardoza', with a large, stylized flourish extending from the end of the signature.

The following comments are provided by CA Farm Bureau legal counsel on the subject of BESS. Underlined is the response from Samsung.

- *The unique safety challenges of Battery Energy Storage Systems (BESS), including fire hazards and emergency response complexities, require a deeper analysis as the risks associated with these facilities continue to evolve. This is highlighted by the recent fire at the 750 megawatt Moss Landing Energy Storage Facility which began January 16, 2025, and despite appearing contained reignited a little over a month later on February 18, 2025.*

BESS projects are becoming more and more common and as the number of projects that are constructed increases nationwide, news stories of BESS fires become more notable. The fact of the matter is that BESS fires are rare and proper safety measure and codes/standards are already in place. The Moss Landing fire noted above was an indoor BESS facility, which significantly complicates the fire safety and mitigation approach due to the risks of secondary fires. Standard utility scale BESS projects are constructed outdoors and their outdoor design innately helps to minimize and mitigate secondary fires. The chief root cause for BESS fire is due to thermal runaway events, but this has been a focused concern for years across the industry and many manufacturers, EPCs, and fire safety agencies have put significant effort, research, and safety measures, best practices and standards in place to reduce this risk.

The energy storage system will be required to comply with Chapter 1206 of the California Fire Code (CFC) and County standards. Section 1206 of the Fire Code applies to stationary electric energy storage systems and addresses development standards for design, installation, commission, operation, maintenance, and decommissioning of these systems. This includes fire and safety equipment requirements that will be approved by the Fire Code officials having jurisdiction over the project and equipment and system fire testing in accordance with nationally adopted Underwriters Laboratory (UL) standards, which includes stringent standards for commissioning, operation and maintenance, ongoing inspection and testing, decommissioning, seismic and structural design, signage, security installations, fire detection and suppression systems, vegetation control and minimum setbacks from lot lines, roads, and adjacent buildings. Compliance with these advanced, nationally adopted standards are designed to ensure the site installation and operation of battery storage systems are safe for operators, first responders, and neighboring communities. All non-battery rooms would have County approved fire suppression systems.

The structure would also have heating, ventilation, and air conditioning (HVAC) cooling in the battery room to maintain energy efficiency. Batteries may include small amounts of solid and liquid materials considered to be hazardous. All battery storage systems would be in accordance with Occupational Safety and Health Administration (OSHA) requirements.

Specifically, the energy storage enclosures would conform with CFC, National Fire Protection Association code, County standards, and thermal runaway management systems per UL 9540A. The project would utilize pre-engineered battery storage systems designed and tested to receive UL 9540 and UL 9540A listing. UL 9540 contains safety standards for the system's construction (e.g., frame and enclosure, including mounting, supporting materials, barriers and more); the insulation, wiring, switches, transformers, spacing and grounding; safety standards for performance of over 20 different elements, such as tests for temperature, volatility, impact, overload of switches, and an impact drop test; and standards for manufacturing, ratings, markings, and instruction manuals. In addition to the many individual standards referenced, CFC compliance requires a Failure Mode and Effects Analysis be performed and requires a test to ensure safe compatibility of the system's parts. This includes the UL 1973 standard, in which a battery manufacturer must prove that a failed cell inside will not cause a fire outside the system. The project's compliance with the CFC, UL 9540/9540A requirements, and industry standards for adequate separations, cascading protections, and suppression systems to limit failure to a single cell or module. In the unlikely event of thermal runaway, the project's preventative measures and fire and safety systems are designed to limit the event to a single battery enclosure as well as reduce the duration and intensity of an event, if it occurs.

- *While the project notes it will follow current best safety practices, it also notes that while it will likely use one of several commercially available lithium ion (Li ion) technologies, though alternatives may be considered (such as flow batteries). Due to the rapidly changing technology in the battery industry, it may be more efficient, environmentally conscious, and economical, to use a then-current technology.?*
A LFP (lithium iron phosphate) BESS system will likely be utilized for this project, as it is a commonly utilized technology with PMS (power management system) / BMS (battery management systems) at each unit depending on the manufacturer, which will be determined at a later date.

See comments above.

- *This will make determination of best practices and safety difficult if untested new technology is used and greater scrutiny must be given to potential hazards and safety protocols. Last year, a Tesla Semi truck crash required 50,000 gallons of water to extinguish and required aircraft to dump fire retardant overhead, according to a report by the National Transportation Safety Board, while the lithium-ion battery in the Tesla Semi and the BESS facility may be slightly different, according to the project there will only be a proposed 24,000 gallons of water onsite for a 3.43 acre footprint of BESS.*
In the unlikely event of a lithium battery fire, the flames should not be extinguished using water, but rather specialized retardants that cools and extinguishes the hazard. Containing the fire to within the BESS area and avoiding secondary fire ignition through

proper fire retardant use has proven to be a key method in controlling a lithium ion BESS fire. This helps avoid contamination to the area by refraining from water usage with subsequent runoff. Additionally, projects have utilized fire barriers in densely populated and congested areas to help mitigate the risk of secondary fires. Prior to construction as well as following completion of the project, local fire agencies / departments will be sufficiently trained on the current safety protocols and challenges specifically related to the given site. The site will allow for the fire entities to have direct access and proper clearances for their safety equipment.

- *The project notes, despite precautions and current fire safety guidelines, potential hazards associated with BESS include increased potential for electrical shock and chemical release associated with the batteries used.? There is a dairy located to the North of the project and other agricultural operations to the East, West, and South that will all be impacted should a chemical release incident occur. It remains unclear what the impacts of BESS chemical releases would be on animals and current guidance urges shelter in place for individuals. Not only would this impact productivity, but it creates heightened fear of future health complications or heavy metal impacts to soils and crop uptake.*

Proper fire safety protocol will be established for the given site in coordination with the County Fire Marshall. Gas detection and monitoring systems will be in place to quickly and efficiently indicate a hazard. Shelter in place and evacuation plans for the at risk areas will be part of the safety program onsite. Long term monitoring following a thermal event is key for mitigating fire hazards and to maintain public safety.

- *Further, the project notes, there is no onsite management and will utilize remote monitoring which can be fallible given broadband reliance in rural areas, which potentially delays response time.*

The onsite monitoring would be the PMS and BMS as described above. These systems have integrated safety criteria that will shut off and isolate areas of the facility autonomously if the system starts operating in an erroneous fashion. Key indicators that the BMS monitors is the battery current, voltage, temperature, and state of charge on a per BESS unit basis. The offsite monitoring system is likely to be at the substation/switching station controlling the BESS site as a whole.

- *As with Moss Landing, we see there is still a lot to learn and understand about BESS to keep our communities safe. Air quality and soil quality testing are still occurring around Moss Landing, and science and data must lead the discussion.*

Our project will follow industry safety and fire prevention standards established for BESS projects. As there is no definitive data to warrant additional analysis or response, this comment is noted.

- *BESS is under a microscope, and we should be cautious to approve a project before we have more informed data. The Public Utilities Commission (PUC) has recently undertaken revisions to General Order 167, which have not received comment and have not been*

implemented. The proposal adds new safety standards specifically for the maintenance and operation of BESS, as required by Senate Bill 1383 (Hueso, 2022). In addition, the legislature appears poised to undertake the conversation especially with Assembly Bill 303 authored by Dawn Addis (D – Morro Bay), which would remove a battery storage project of this size from the California Energy Commission opt-in certification program, but more relevant prevent a project of this size from being sited on Prime Farmland? or Farmland of Statewide Importance? (as defined by to the United States Department of Agriculture land inventory and monitoring criteria, as modified for California) or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction. This bill will likely be one of many given the communities concerns on these projects. Given the PUC and legislature are both grappling with the issue of battery safety and approving a project that may quickly be in violation of new standards or legislation seems unwise.

As discussed above, the BESS footprint is proposed to be roughly 3.4 acres, which is a small portion of the entire proposed project area. Additionally, the project would not be located on land designated as Prime Farmland or Farmland of Statewide Importance. In regards to safety standards, it should be noted that although the project design is not finalized, it will be designed in accordance with all safety standards as outlined above, as well as in coordination with the Tulare County Fire Marshall.

It is speculative to guess what the State legislature may or may not pass regarding the use of BESS. Since there is no proof that there will be any significant changes in the legislation will be adopted, there is not requirement under CEQA to address such possible outcomes at this time. As outlined in CEQA guidelines section 15145:

15145. SPECULATION

If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061, and 21100, Public Resources Code; *Topanga Beach Renters Association v. Department of General Services*, (1976) 58 Cal. App. 3d 712.



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



March 18, 2025

Gary Mills, Chief Planner
Tulare County Resource Management Agency, Environmental Planning Division
5961 South Mooney Boulevard
Visalia, California 93277
(559) 624-7199
Gmills@tularecounty.ca.gov

Subject: Foxtail Solar Project (Project)
Mitigated Negative Declaration (MND)
State Clearinghouse No. 2025021051

Dear Gary Mills:

The California Department of Fish and Wildlife (CDFW) received a MND from Tulare County for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA 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, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under 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 is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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Tulare County Resource Management Agency, Environmental Planning Division

March 18, 2025

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projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, 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 may be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Foxtail Solar, LLC

Objective: The Project proposes to construct and operate a 55-megawatt (MW) photovoltaic solar power generation facility with a 55-MW battery energy storage system (BESS). Construction of the 450-acre facility would include site grading and earthwork, solar array construction, and interconnection to an existing 66-kilovolt (kV) transmission line running to an existing electrical substation adjacent to the Project site.

Location: The Project would be located on a 475.5-acre parcel of private land in western Tulare County, approximately five miles southwest of the City of Tulare. The Project site comprises Assessor Parcel Number (APN) 228-050-020, which is bounded by Avenue 190 to the north, Road 80 to the east, Avenue 184 to the south, and Road 72 to the west.

Timeline: Construction is expected to begin in late 2025 and occur over 18 months.

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 Tulare County Resource Management Agency, Environmental Planning Division
 March 18, 2025
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COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist Tulare County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the MND.

Aerial imagery of the Project site and its surroundings show the area contains mostly agricultural habitats including tilled row crops, orchards, fallow fields, and irrigation ponds. Based on a review of the Project description, California Natural Diversity Database (CNDDDB) records, and the surrounding habitat, several special-status species could potentially be impacted by Project activities. Currently, the MND acknowledges that the Project area is within the geographic range of several special-status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some of the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special-status animal species, including the State threatened Swainson's hawk (*Buteo swainsoni*) and the State candidate western burrowing owl (*Athene cunicularia hypugaea*).

Swainson's hawk

CDFW concurs with the portions of Mitigation Measures BIO-4, BIO-5, BIO-6, and BIO-7 specifically related to Swainson's hawk (SWHA). In addition, CDFW recommends the MND include the following measure:

Recommended Mitigation Measure 1: SWHA Foraging Habitat Mitigation

CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report:

- For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised.
- For projects within 5 miles of an active nest but greater than 1 mile, a minimum of $\frac{3}{4}$ acre of HM land for each acre of development is advised.
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of $\frac{1}{2}$ acre of HM land for each acre of development is advised.

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Western burrowing owl

The California Fish and Game Commission approved western burrowing owl (BUOW) as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register (Notice Register) on October 25, 2024. As such, BUOW is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

CDFW does not concur that Mitigation Measures BIO-8, BIO-9, and BIO-10 are sufficient to reduce impacts to less than significant for BUOW. Additionally, passive relocation of BUOW, as proposed in Mitigation Measure BIO-10, is likely to directly result in unauthorized take of the species, and implementation of the measure may itself result in a potentially significant impact under CEQA. Therefore, passive relocation of BUOW is not recommended by CDFW, unless prior take authorization from CDFW is obtained prior to relocation efforts.

CDFW recommends the MND include the following measures to reduce potential impacts to BUOW to less than significant:

Recommended Mitigation Measure 2: BUOW Surveys Prior to Construction

CDFW recommends that focused surveys, specifically following the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012), be conducted the survey season immediately prior to construction. Please note that the 2012 Staff Report necessitates multiple surveys prior to the initiation of construction.

Recommended Mitigation Measure 3: BUOW Avoidance Buffer

Should a BUOW or known BUOW den (active or inactive) be detected, either during pre-construction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012), be implemented prior to and during any ground-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 4: BUOW Take Authorization

If a BUOW or known BUOW den (active or inactive) is detected, and the no-disturbance buffers outlined in the 2012 Staff Report on Burrowing Mitigation are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through

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the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Editorial Comments and/or Suggestions

Nesting birds: Currently Mitigation Measures BIO-5 and BIO-6 note that the nesting season occurs from February 1 to August 31. CDFW encourages that Project ground-disturbing activities occur during the bird non-nesting season and generally recommends the nesting season be from approximately February 1st through September 15th. CDFW would like to note the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct a pre-construction survey for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Lake and Streambed Alteration: The MND states that one intermittent stream is present within the Project site. Project activities that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602

Gary Mills

Tulare County Resource Management Agency, Environmental Planning Division

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requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSAA issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

CNDDDB: Please note that the CNDDDB is populated by records through voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) using the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present at or near the Project site.

Artificial Lighting: Installation of outdoor artificial night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication, determining when to begin foraging, thermoregulation behavior, and migration (Longcore and Rich 2004, Miller 2006, Nightingale et al. 2006, Perry et al. 2008, Stone et al. 2009). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004). Project activities could result in disruption of wildlife behavior, inadvertent injury, or mortality.

CDFW recommends that the MND for the Project include an analysis of artificial lighting as it relates to biological resources and incorporate enforceable mitigation measures to decrease the impacts of artificial outdoor lighting on wildlife species. Potentially feasible mitigation measures include motion sensitive lighting; mounting light fixtures as low as possible to minimize light trespass; use of light fittings that direct and confine the spread of light downward; and use of long-wavelength light sources. In addition, CDFW recommends that lighting is not installed in ecologically sensitive areas (e.g., streams,

Gary Mills

Tulare County Resource Management Agency, Environmental Planning Division

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wetlands, and habitat used by special-status species, such as nesting/roosting sites and riparian corridors) and the use of the white/blue wavelengths of the light spectrum be avoided.

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 CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to the CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to the CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

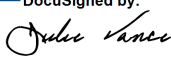
FILING FEES

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

CDFW appreciates the opportunity to comment to assist Tulare County in identifying and mitigating Project impacts on biological resources. Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. If you have any questions, please contact Amanda Canepa, Senior Environmental Scientist (Specialist), at the address provided on this letterhead, by telephone at (805) 746-0721, or by electronic mail at Amanda.Canepa@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Gary Mills

Tulare County Resource Management Agency, Environmental Planning Division

March 18, 2025

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ATTACHMENT

ec: State Clearinghouse
Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov

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March 18, 2025
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REFERENCES

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1
Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

PROJECT: Foxtail Solar Project by Foxtail Solar, LLC

SCH No.: 2025021051

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
SWHA	
Recommended Mitigation Measure 1: SWHA Foraging Habitat Mitigation	
BUOW	
Recommended Mitigation Measure 2: BUOW Surveys Prior to Construction	
Recommended Mitigation Measure 4: BUOW Take Authorization	
<i>During Construction</i>	
BUOW	
Recommended Mitigation Measure 3: BUOW Avoidance Buffer	

February 13, 2025

David Alexander
County of Tulare
Resource Management Agency
5961 South Mooney Boulevard
Visalia, CA 93277

Project: Special Use Permit No. PSP 24-065

District CEQA Reference No: 20250148

Dear Mr. Alexander:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Special Use Permit (SUP) from the County of Tulare (County) for the above project. Per the SUP, the project consists of the construction of a 55-megawatt (MW) photovoltaic solar generation facility and a 55 MW battery energy storage system on 475.5 acres (Project). The Project is located on the northwest corner of Avenue 184 and Road 80 in Tulare, CA (APN: 228-050-020).

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.

The District's initial review of the Project concludes that emissions resulting from construction and/or operation of the Project may exceed any of the following significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts: <https://ww2.valleyair.org/media/g4nl3p0g/gamaqi.pdf>. The District recommends that a more detailed preliminary review of the Project be conducted for the Project's construction and operational emissions.

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

1a) Construction Emissions

The District recommends, to reduce impacts from construction-related diesel exhaust emissions, the Project should utilize the cleanest available off-road construction equipment.

1b) Operational Emissions

Operational (ongoing) air emissions from mobile sources and stationary sources should be analyzed separately. For reference, the District's significance thresholds are identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts:

<https://ww2.valleyair.org/media/q4nl3p0g/gamaqi.pdf>.

Recommended Mitigation Measure: At a minimum, project related impacts on air quality should be reduced to levels below the District's significance thresholds through incorporation of design elements such as the use of cleaner Heavy Heavy-Duty (HHD) trucks and vehicles, measures that reduce Vehicle Miles Traveled (VMTs), and measures that increase energy efficiency. More information on transportation mitigation measures can be found at:

<https://ww2.valleyair.org/media/ob0pweru/clean-air-measures.pdf>

1c) Recommended Model for Quantifying Air Emissions

Project-related criteria pollutant emissions from construction and operational sources should be identified and quantified. Emissions analysis should be performed using the California Emission Estimator Model (CalEEMod), which uses the most recent CARB-approved version of relevant emissions models and emission factors. CalEEMod is available to the public and can be downloaded from the CalEEMod website at: www.caleemod.com.

2) Health Risk Screening/Assessment

The County should evaluate the risk associated with the Project for sensitive receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) in the area and mitigate any potentially significant risk to help limit exposure of sensitive receptors to emissions.

To determine potential health impacts on surrounding receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) a Prioritization and/or a Health Risk Assessment (HRA) should be performed for the Project. These health risk determinations should quantify and characterize potential Toxic Air Contaminants (TACs) identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health.

Health risk analyses should include all potential air emissions from the project, which include emissions from construction of the project, including multi-year construction, as well as ongoing operational activities of the project. Note, two common sources of TACs can be attributed to diesel exhaust emitted from heavy-duty off-road earth moving equipment during construction, and from ongoing operation of heavy-duty on-road trucks.

Prioritization (Screening Health Risk Assessment):

A "Prioritization" is the recommended method for a conservative screening-level health risk assessment. The Prioritization should be performed using the California Air Pollution Control Officers Association's (CAPCOA) methodology. Please contact the District for assistance with performing a Prioritization analysis.

The District recommends that a more refined analysis, in the form of an HRA, be performed for any project resulting in a Prioritization score of 10 or greater. This is because the prioritization results are a conservative health risk representation, while the detailed HRA provides a more accurate health risk evaluation.

Health Risk Assessment:

Prior to performing an HRA, it is strongly recommended that land use agencies/ project proponents develop and submit for District review a health risk modeling protocol that outlines the sources and methodologies that will be used to perform the HRA.

A development project would be considered to have a potentially significant health risk if the HRA demonstrates that the health impacts would exceed the District's established risk thresholds, which can be found here:

<https://ww2.valleyair.org/permitting/ceqa/>.

A project with a significant health risk would trigger all feasible mitigation measures. The District strongly recommends that development projects that result in a significant health risk not be approved by the land use agency.

The District is available to review HRA protocols and analyses. For HRA submittals please provide the following information electronically to the District for review:

- HRA (AERMOD) modeling files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodologies.

For assistance, please contact the District's Technical Services Department by:

- E-Mailing inquiries to: hramodeler@valleyair.org
- Calling (559) 230-5900

Recommended Measure: Development projects resulting in TAC emissions should be located an adequate distance from residential areas and other sensitive receptors to prevent the creation of a significant health risk in accordance to CARB's Air Quality and Land Use Handbook: A Community Health Perspective located at <https://ww2.arb.ca.gov/our-work/programs/resource-center/strategy-development/land-use-resources>.

3) Ambient Air Quality Analysis

An Ambient Air Quality Analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. The District recommends an AAQA be performed for the Project if emissions exceed 100 pounds per day of any pollutant.

An AAQA uses air dispersion modeling to determine if emission increase from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. An acceptable analysis would include emissions from both project-specific permitted and non-permitted equipment and activities. The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis.

Specific information for assessing significance, including screening tools and modeling guidance, is available online at the District's website: <https://ww2.valleyair.org/permitting/ceqa/>.

4) Voluntary Emission Reduction Agreement

Criteria pollutant emissions may result in emissions exceeding the District's significance thresholds, potentially resulting in a significant impact on air quality. When a project is expected to have a significant impact, the District recommends the environmental review also include a discussion on the feasibility of implementing a Voluntary Emission Reduction Agreement (VERA) for this Project.

A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate project specific emissions by providing funds for the District's incentives programs.

The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-related impacts on air quality can be mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of agricultural equipment with the latest generation technologies.

In implementing a VERA, the District verifies the actual emission reductions that have been achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. After the project is mitigated, the District certifies to the Lead Agency that the mitigation is completed, providing the Lead Agency with an enforceable mitigation measure demonstrating that project-related emissions have been mitigated. To assist the Lead Agency and project proponent in ensuring that the environmental document is compliant with CEQA, the District recommends the environmental document includes an assessment of the feasibility of implementing a VERA.

5) 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 (559) 230-5888.

5a) 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 may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to 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 (559) 230-5888.

5b) District Rule 9510 - Indirect Source Review (ISR)

The Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 9,000 square feet of space.

The purpose of District Rule 9510 is to reduce the growth in both NO_x and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The ISR Rule requires developers to mitigate their NO_x and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

Per Section 5.0 of the ISR Rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency. As of the date of this letter, the District has not received an AIA application for this Project. Please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510 so that proper mitigation and clean air design under ISR can be incorporated into the Project's design.

Information about how to comply with District Rule 9510 can be found online at: <https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview>

The AIA application form can be found online at: <https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview/forms-and-applications/>

District staff is available to provide assistance and can be reached by phone at (559) 230-5900 or by email at ISR@valleyair.org.

5c) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants)

In the event an existing building will be renovated, partially demolished or removed, the Project may be subject to District Rule 4002. This rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Information on how to comply with District Rule 4002 can be found online at: <https://ww2.valleyair.org/compliance/demolition-renovation/>

5d) 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>

5e) 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>

5f) 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).

6) 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 Dylan Casares by e-mail at Dylan.Casares@valleyair.org or by phone at (559) 230-6574.

Sincerely,

Tom Jordan
Director of Policy and Government Affairs



For: Mark Montelongo
Program Manager

RESOURCE MANAGEMENT AGENCY



INTEROFFICE MEMORANDUM

December 9, 2024

TO: David Alexander, Project Planner

FROM: Vanesa Sandoval, Engineer II

SUBJECT: Case No. PSP 24-065

APPLICANT: Foxtail Solar, LLC

APN: 228-050-020

The subject Case No. PSP 24-65 has been reviewed. The following comments and recommendations are submitted for consideration in processing this matter.

The subject site is not located within any Urban Development Boundary.

The subject site is not located within the boundaries of any Specific Plan.

Flood Information:

The following flood zone information is based on our interpretation of the Federal Emergency Management Agency (FEMA) National Flood Insurance Program Flood Insurance Rate Map for Community Number 065066 dated June 16, 2009, Panel No. 1250. The subject site is located within Zone A and Zone X.

An elevation certificate and associated flood hazard mitigation measures will be required on all proposed buildings within a FEMA Zone A.

Construction within Zone X requires no specific flood mitigation measures.

Right-of-way Information:

The subject site lies on the north side of Avenue 184, south side of Avenue 190, the east side of Road 72, and the west side of Road 80. The existing right of way on Avenue 184 and Avenue 190 is 50 feet (25 feet on the north side and 25 feet on the south side). The existing right of way on Road 72 and Road 80 is 50 feet (25 feet on the west side and 25 feet on the east side). Ultimate right of way on Avenue 184, Avenue 190, Road 72 and Road 80 is 60 feet.

No additional right-of-way dedications are required pursuant to the Ordinance Code for any parcel with an area of ten acres or more.

Road Information:

According to the county's maintained mileage maps, Avenue 184, Avenue 190, Road 72 and Road 80 are county-maintained roads.

Based on the 2024 Pavement Management System database, the existing pavement width on Avenue 184 is 29.3 feet, Avenue 190 is 15 feet, Road 72 is 16.9, and Road 80 is 18.4 feet. The pavement type on all four streets is asphalt concrete.

The following conditions are recommended for the subject case. These conditions are required to be completed before the issuance of the use permit, unless specified otherwise in the wording of the condition.

1. A drive approach shall be constructed at each proposed point of access to Avenue 184, Avenue 190, Road 72 and Road 80 on the subject site. The drive approach shall have a maximum width of 35 feet at the right of way line and shall be constructed in accordance with the Tulare County Improvement Standards. A wider drive approach may be constructed if geometric calculations justifying the wider drive approach are submitted to and approved by the Tulare County RMA – Engineering Branch.
2. All on-site parking areas and driveways shall be surfaced for all-weather conditions and be continually maintained so that dust and mud do not create conditions detrimental to the surrounding roadways.
3. The applicant or the applicant's contractor shall obtain the necessary encroachment permits from the Tulare County Resource Management Agency before starting any construction within the right of way of a County maintained road. The applicant may contact the Resource Management Agency – Encroachment Permit Section at 624-7000 for information on the requirements for encroachment permits in order to avoid unexpected delays. Improvements that typically require encroachment permits are drive approaches, curb and gutter, sidewalk, paveout and utilities.
4. The applicant shall make all necessary arrangements for the relocation of all overhead and underground public utility facilities that interfere with any improvements required to be constructed within the right of way of a county road. The applicant shall make necessary arrangements with the serving public utility company for the cost of relocating such facilities as no relocation costs will be borne by the County. The relocation of such facilities shall be completed before any encroachment permits will be issued for the construction of any improvements within the right of way of a county road.
5. The improvement requirement as identified in Condition No. 1 above is deferred until such time as building permits and certain other permits and certificates are issued as provided in Ordinance Code Section 7-15-1940 et seq.



TULARE COUNTY FIRE DEPARTMENT

835 S Akers St, Visalia, CA 93277 - Phone (559) 802-9800 - Fax (559) 747-8242

Charlie Norman
FIRE CHIEF

April 3, 2025

Attn: David Alexander

Tulare County Fire Department has conducted a plan review on plans # PSP 24-065, the following is a check list of requirements for: 55MWac solar PV facility with battery storage - Foxtail Solar - REF: PRC 23-066.

GENERAL FIRE REQUIREMENTS

- (If Tulare County Fire deems necessary or requested by concerned neighbor) Before permit will be granted, a report is required on drift smoke plume effects on _____ and surrounding community, provided by licensed professional or qualified person.
- Posted address minimum 4"x3"x ½" line width permanent numbers on sign-age visible from the roadway.
- Emergency Contact information with address and emergency contact phone number on signage at the field entry gate and must be visible from the roadway.
- Commercial solar must have an address.
- All-weather (2" after compact- crushed rock, road base, or DG) 20 feet Fire Dept. access road, with a maintained 13 feet 6 inches vertical clearance.
- Fire apparatus access roads/lanes shall be identified on approved plans.
- Install fire extinguisher, 2A-10BC mounted at 4' at main electrical panels and as required by the Fire Code and Ca. Title 19.
- Fire Department requires a Knox Box or Knox padlock to be installed at an approved location to permit entry to the site if behind locked fence or gate.
- New gates shall be at least 20 foot wide, installed 30' back from the public way and open inward.
- All combustible vegetation shall be removed from the site (area being worked) or cut to a maximum height of 3 inches under the solar array.
- Remove all dead and dying vegetation within 30 feet of all structures (SRA, 100 feet), plus property lines, and 10' on each side of the driveway. Vegetation must be disposed of prior to the start of construction.
- A Tulare County Fire Department approved, on-going annual weed abatement plan to prevent the accumulation of combustible vegetation through-out the field that would create a fire hazard must be submitted before final approval of this permit.
- Access roads of an all-weather surface shall be provided so that no portions of the photovoltaic panels are further than 155 feet from a fire apparatus access road.
- 20-foot fire access roads shall be constructed at intervals of no greater than 310 feet.
- Applicant shall be responsible for training fire personnel of facility operations, hazards, and emergency procedures for shutting down the operation.
- If permanent or temporary buildings are proposed, National Fire Protection Agency (NFPA) 1142 standards for rural water supplies shall be required. (min. 2000-gallon water tank) This shall include portable buildings during construction.
- SOLAR: attached to this permit is the file "TCFD Ground mount solar, 10-22-2024" document.
- ESS: Follow 2022 CFC Section 322, Storage of Lithium-Ion, and Lithium Metal Batteries
- ESS: Follow 2022 CFC Section 1207, Electrical Energy Storage Systems.

- ESS: attached to this permit is the file "TCFD *Energy Storage Systems Permit Requirements* 4-3-2025".
- ESS: Fire water storage tank required for energy storage systems (ESS), minimum 24,000 gallons based on Chapter 12, Sec 1207 of the 2022 CFC, NFPA 855, and NFPA 1142 standards. Call Tulare County fire as soon as possible for proper placement of the tank at 559-802-9807.
- Fire water tank placement and FDC connection shall be within 8 feet of roadway, at least 300 feet from the nearest BESS unit, and at least 30 feet from all overhead power lines.
- All Water Tanks over 5,000 gallons need to be on an approved foundation or on a foundation that is recommend by the tank manufacturer. A set of foundation plans need to be provided and approved by the building department.
- ESS: Sprinkler based fire control and suppression systems shall be installed in accordance with NFPA 855.
- ESS: Comply with Chapter 12, Sec 1207 of the CFC 2022 ed. and NFPA 855 standards for energy storage systems.
- Fire Final required prior to building final. Call (559) 802-9807 to schedule.

*Note, this checklist does not exclude builder /owner from all required applicable codes. If something was missed in the plan check process, the owner /builder will be expected to comply with the applicable code, regulation, or ordinance.
Respectfully submitted.



Mark Phillips
Fire Inspector – Plans Examiner
Tulare County Fire Department
(559)624-7074



TULARE COUNTY
HEALTH & HUMAN SERVICES AGENCY

Donna Ortiz
Agency Director

Karen M. Elliott, MBA • Director • Public Health Branch
Nilsa Gonzalez, REHS • Public Health Branch Deputy Director • Environmental Health Director

December 5, 2024

DAVID ALEXANDER
RESOURCE MANAGEMENT AGENCY
5961 S MOONEY BLVD
VISALIA CA 93277

RE: SPECIAL USE PERMIT, PSP 24-065

This office has reviewed the above-referenced matter. Based upon our review, we have the following comments for this project:

1. If the site ever handles or stores quantities of hazardous materials in excess of 55 gallons of a liquid, 500 pounds of a solid or 200 cubic feet of a compressed gas, or **any** amount of a hazardous waste, then the site will be required to submit a Hazardous Materials Business Plan (HMBP) to the Tulare County Environmental Health Services Division (TCEHSD). The facility shall immediately contact TCEHSD at (559)624-7400 if the site ever meets these threshold quantities.
2. Equipment storage areas shall be properly managed as to prevent nuisance of dust, odors, vector harborage and breeding.

If there are any questions, please contact me at (559) 624-7400.

Regards,

A handwritten signature in blue ink that reads "Kevin Bangsund".

Kevin Bangsund, REHS
Environmental Health Specialist III
Environmental Health Services Division



RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD
VISALIA, CA 93277 .
PHONE (559) 624-7000
FAX (559) 730-2653

Aaron Bock	Economic Development and Planning
Reed Schenke	Public Works
Sherman Dix	Fiscal Services

REED SCHENKE, DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

March 18, 2025

Monique Wilber, Conservation Program Support Supervisor
Department of Conservation
Division of Land Resource Protection
801 K Street, MS 14-15
Sacramento, CA 95814

Subject: Response to Comments, IS/MND – Foxtail Solar Project, SCH# 2025021051

Dear Ms. Wilber,

Thank you for providing the Department of Conservation (DOC), Division of Land Resource Protection (DLRP) letter response (dated March 18, 2025) regarding the Initial Study/Mitigated Negative Declaration (IS/MND) for the Foxtail Solar Project (SCH# 2025021051).

The County of Tulare (County) acknowledges and recognizes DOC's authority and expertise regarding land resource related issues relative to the proposed project. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference).

Comment Subject 1: Permanent conversion of agricultural land represents a significant impact to the State's agricultural land resources.

Response: The entire approximately 475.50-acre Project site will not be permanently converted from agricultural land. As noted in the IS/MND (Page 17), the site is temporarily being re-purposed for an anticipated 35-year timeframe thereby preserving the land for future cropland use. The use is allowed in the AE-40 (Exclusive Agriculture – 40 Acre Minimum) zone with a special use permit, as such, the County stands by its determinations that the Project would result in a less than significant impact.

Comment Subject 2: The Department advises that the environmental review discuss the compatibility of the project with the contract and local Williamson Act program requirements.

Response: As indicated in Response to Comment 1, the site is temporarily being re-purposed for an anticipated 35-year timeframe thereby preserving the land for future cropland use. As noted in the IS/MND (page 19) Tulare County Board of Supervisors Resolution No. 2010-0590 determined that solar generating facilities are a compatible use in Exclusive Agricultural Zone Districts, subject to conditions of approval set forth in Special Use Permits. The site is located on an AE-40 zone and includes explicit conditions of approval that upon ultimate

decommissioning of the site, it will be reclaimed to the extent that agricultural production may be re-initiated. As such, implementation of the site's Reclamation Plan would result in a less than significant impact to this resource.

Comment Subject 3: The Department advises the use of permanent agricultural conservation easement...as mitigation for the loss of agricultural land.

Response: As indicated in Response to Comment 1, the site is temporarily being re-purposed for an anticipated 35-year timeframe thereby preserving the land for future cropland use, as such, the use of permanent agricultural conservation easement is not warranted or necessary.

Comment Subject 4: All mitigation measures that are potentially feasible should be included in the Draft Environmental Impact Report.

Response: As noted earlier, the project's environmental document is a mitigated negative declaration, rather than a Draft EIR as noted in the comment. As indicated in Response to Comment 1, the site is temporarily being re-purposed for an anticipated 35-year timeframe thereby preserving the land for future cropland use, as such, mitigation measures are not required.

The project will be taken to the Tulare County Planning Commission on **Wednesday, April 9, 2025**, for consideration of approval of the Project and the IS/MND. The staff report and applicable Planning Commission information for this project are available at the following website: <https://tularecounty.ca.gov/rma/planning-building/planning-commission/>

If you have any questions regarding the above, please contact me by phone at (559) 624-7138, or by email at dalexander@tularecounty.ca.gov

Best Regards,

David Alexander, Planner III
Project Processing Division

Attachments: (1) DOC-DLRP comment letter, March 18, 2025



MARCH 18, 2025

VIA EMAIL: GMILLS@TULARECOUNTY.CA.GOV
TULARE COUNTY RESOURCE MANAGEMENT AGENCY
ATTN: GARY MILLS, CHIEF PLANNER
ENVIRONMENTAL PLANNING DIVISION
5961 SOUTH MOONEY BLVD
VISALIA, CA 93277-9394

Dear Gary Mills:

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION FOR THE FOXTAIL SOLAR PROJECT, SCH# 2025021051

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Notice of Intent to Adopt a Mitigated Negative Declaration for the Foxtail Solar Project (Project).

The Division monitors and maps farmland conversion on a statewide basis, provides technical assistance regarding the Williamson Act, and administers various agricultural land conservation programs. Public Resources Code, section 614, subdivision (b) authorizes the Department to provide soil conservation advisory services to local governments, including review of CEQA documents.

Protection of the state's agricultural land resources is part of the Department's mission and central to many of its programs. The CEQA process gives the Department an opportunity to acknowledge the value of the resource, identify areas of Department interest, and offer information on how to assess potential impacts or mitigation opportunities.

The Department respects local decision-making by informing the CEQA process, and is not taking a position or providing legal or policy interpretation.

We offer the following comments for consideration with respect to the project's potential impacts on agricultural land and resources within the Department's purview.

PROJECT ATTRIBUTES

The proposed Foxtail Hybrid Solar Project (Project) would construct and operate 55-megawatt (MW) photovoltaic solar generation facility and a 55 MW battery energy storage system (BESS) at 4 hours of continuous discharge on an approximate 475.5-acre site in Tulare County. The Project proposes to develop approximately 450 acres of the

475.5-acre parcel, and would install approximately 108,344 single-axis tracker solar panels on the site.

The Project site contains Prime Farmland as designated by DOC's Farmland Mapping and Monitoring Program, and a portion of the project site is subject to a Williamson Act contract.

PROJECT CONSIDERATIONS

The conversion of agricultural land represents a permanent reduction and impact to California's agricultural land resources. The Department generally advises discussion of the following in any environmental review for the loss or conversion of agricultural land:

- Type, amount, and location of farmland conversion resulting directly and indirectly from implementation of the proposed project.
- Impacts on any current and future agricultural operations in the vicinity; e.g., land-use conflicts, increases in land values and taxes, loss of agricultural support infrastructure such as processing facilities, etc.
- Incremental impacts leading to cumulative impacts on agricultural land. This would include impacts from the proposed project, as well as impacts from past, current, and likely future projects.
- Implementation of any City or County Agricultural Mitigation Plans, Programs, or Policies.
- Proposed mitigation measures for impacted agricultural lands within the proposed project area.
- The project's compatibility with lands within an agricultural preserve and/or enrolled in a Williamson Act contract.

WILLIAMSON ACT

Where, as here, the project site is located on land subject to a Williamson Act contract, the Department advises that the environmental review discuss the compatibility of the project with the contract and local Williamson Act program requirements.

MITIGATING AGRICULTURAL LAND LOSS OR CONVERSION

Consistent with CEQA Guidelines, the Department advises that the environmental review address mitigation for the loss or conversion of agricultural land. An agricultural conservation easement is one potential method for mitigating loss or conversion of agricultural land. (See Cal. Code Regs., tit. 14, § 15370 [mitigation includes "compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements."]; see also *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814.)

Mitigation through agricultural conservation easements can take at least two forms: the outright purchase of easements or the donation of mitigation fees to a local, regional,

or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural easements. The conversion of agricultural land may be viewed as an impact of at least regional significance. Hence, the search for replacement lands may not need to be limited strictly to lands within the project's surrounding area. A helpful source for regional and statewide agricultural mitigation banks is the California Council of Land Trusts. They provide helpful insight into farmland mitigation policies and implementation strategies, including a guidebook with model policies and a model local ordinance. The guidebook can be found at:

[California Council of Land Trusts](#)

Of course, the use of conservation easements is only one form of mitigation, and the Department urges consideration of any other feasible measures necessary to mitigate project impacts.

Thank you for giving us the opportunity to comment on the Notice of Intent to Adopt a Mitigated Negative Declaration for the Foxtail Solar Project. Please provide the Department with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions regarding our comments, please contact Farl Grundy, Associate Environmental Planner via email at Farl.Grundy@conservation.ca.gov.

Sincerely,

Monique Wilber

Monique Wilber

Conservation Program Support Supervisor



TULARE COUNTY FIRE DEPARTMENT

835 S Akers St, Visalia, CA 93277 - Phone (559) 802-9800 - Fax (559) 687-6919

Charlie Norman
FIRE CHIEF

4/3/2025

Energy Storage Systems (ESS) Permit Requirements

Installation of the ESS systems will require the following:

- Submit plans and all materials pertaining to the ESS systems for local review.
- Follow the standards of NFPA 855 and adhere to the appropriate 2022 California Title 24 Code.
- Submitted plans and documents must be under the signature and seal of CA Licensed design professional.
- Applications will be reviewed as to completeness based on the California Fire Code (CFC) and Tulare County Fire Department review. If any required submittal item are missing, the application will be deemed incomplete and the application rejected until such time that a complete package is submitted.
- HMA (Hazard Mitigation Analysis), Fire Risk Analysis, fire suppression and deflagration protection analysis submittals shall be from a CA Licensed Fire Protection Engineer.
- Fire protection system submittals such as fire suppression and water supply shall include a C-16 - Fire Protection Contractor of record.
- Fire alarm systems, fire detection, gas detection shall include a C-10 - Electrical Contractor of record.
- ESS are required to meet all the requirements of the 2022 CFC requirements.
- Final approvals of any ESS or safety related equipment that has routine maintenance requirements according to the code or manufacturer's instructions will not receive approval inspections until a maintenance plan have been submitted and approved by TCFD.

Fire Alarm System submittal on the Energy Storage Systems (ESS) systems. Please follow the currently adopted (CFC), Chapter 9.

The application for a permit to install an Energy Storage System (ESS) is covered in 2022 CFC, sections 105.5 and 1207, and are clear in what is required to be submitted. Follow the standards of NFPA 855, 170, 72. No special local ordinances from Tulare County.

Tulare County does require a separate permit on the fire alarm systems. Tulare County Fire Department (TCFD) has no special requirements regarding submittal other than we would prefer all plans to be electronically submitted.

Note: Tulare County Fire has no other special local ordinances for these systems.

***Note, this checklist does not exclude builder/owner from all required applicable codes. If something was missed in the plan check process, the owner/builder will be expected to comply with the applicable code, regulation, or ordinance.**



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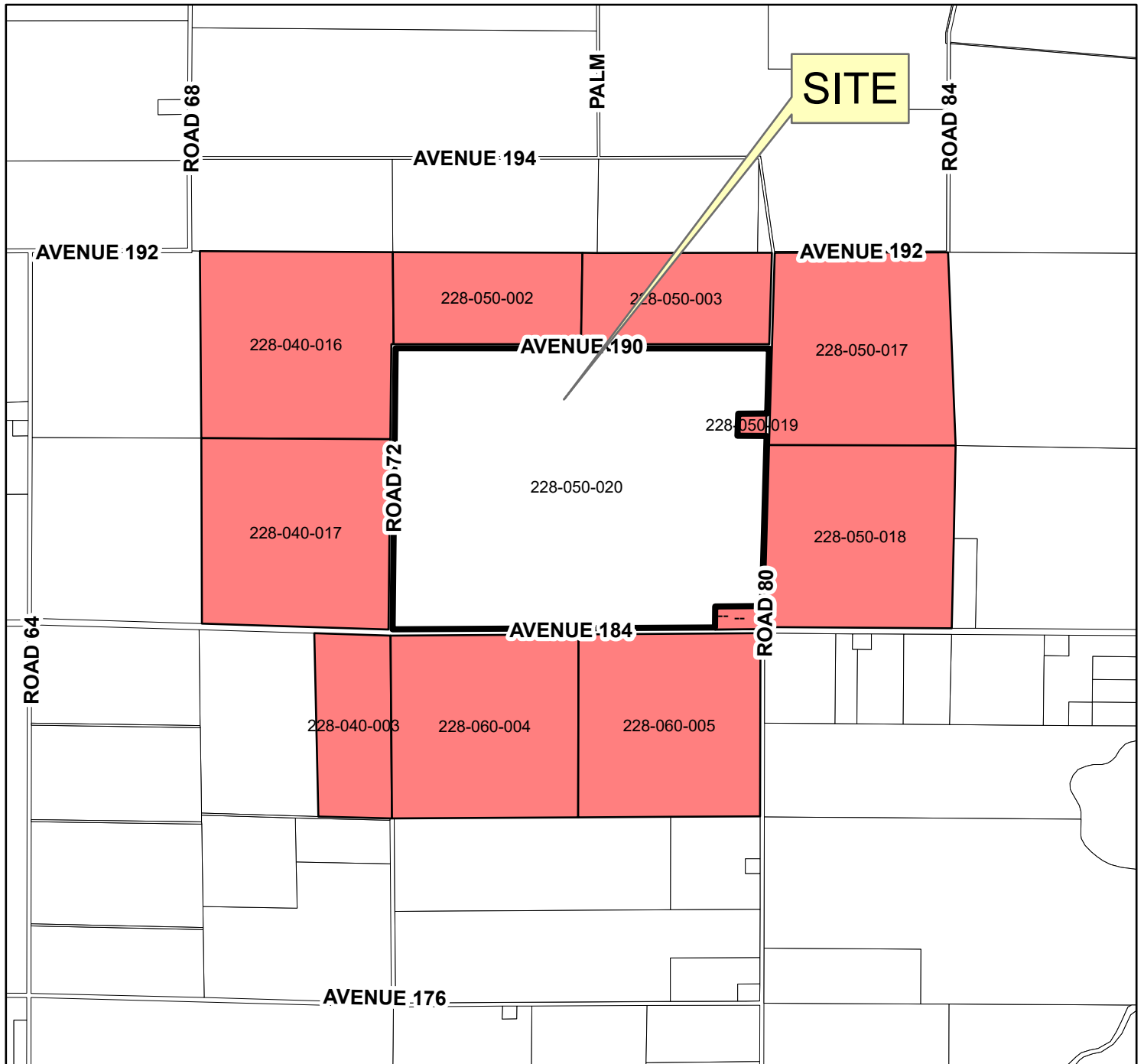
10-22-2024

Requirements for Large Ground Mounted Non-Residential Solar Projects

1. A preliminary planning meeting prior to site construction shall be conducted with primary contractor and Tulare County Fire Department.
2. Fire Department requires a Knox Box to be installed at an approved location to permit entry to the site.
3. Emergency Contact information with address and emergency contact phone number on signage at the field entry gate and must be visible from roadway.
4. Access gates shall be set back 30 feet from the roadway for fire apparatus access.
5. All combustible vegetation shall be removed from the site (area being worked) or cut to a maximum height of 3 inches under the solar array.
6. Remove all dead and dying vegetation within 30 feet of all structures (SRA, 100 feet), plus property lines, and 10' on each side of the driveway. Vegetation must be disposed of prior to the start of construction.
7. A Tulare County Fire Department approved, on-going annual weed abatement plan to prevent the accumulation of combustible vegetation through-out the field that would create a fire hazard must be submitted before final approval of this permit.
8. Access roads of an all-weather surface (crushed rock, road base, or DG – compacted to a Min. 2 inches) shall be provided so that no portions of the photovoltaic panels are further than 155 feet from an accessible fire apparatus access road.
9. All weather access roads shall be a minimum of 20 feet in width (non-obstructed), with a maintained 13 feet 6 inches vertical clearance.
10. 20-foot fire access roads shall be constructed at intervals of no greater than 310 feet.
11. Applicant shall be responsible for training fire personnel of facility operations, hazards and emergency procedures for shutting down the operation.
12. Posted address visible from roadway, min. 4-inch numbers. If project site is not visible from roadway, additional approved all weather address signage may be required.
13. If permanent or temporary buildings are proposed, National Fire Protection Agency (NFPA) 1142 standards for rural water supplies shall be required. (min. 2,000-gallon water tank) This shall include portable buildings during construction.






Location and Property Ownership Map for Hearing Notification for

Attachment No. 7 **PSP 24-065**



Owner: JOE V. CARDOZA III
Applicant: FOXTAIL SOLAR, LLC.
Address: 18839 ROAD 80
City, State, ZIP: TULARE, CA 93274
Supervisory District: 2
Assessors Parcel: 228-050-020

0 1,250 2,500 5,000
Feet

-  Parcels
-  City Limits
-  Urban Development Boundaries
-  PSP 24-065
-  300' Radius Parcels



Attachment No. 9

**Mitigated Negative Declaration, including the
Mitigation Monitoring and Reporting Program
(as Attachment “F” of the MND) for the Foxtail Solar
Project (PSP 24-065)**

**(incorporated by reference and available on the Tulare
County RMA website at:**

**[https://tularecounty.ca.gov/rma/planning-building/
environmental-planning/mitigated-negative-declarations/
foxtail-solar-psp-24-065/](https://tularecounty.ca.gov/rma/planning-building/environmental-planning/mitigated-negative-declarations/foxtail-solar-psp-24-065/)**)

COUNTY OF TULARE RESOURCE MANAGEMENT AGENCY



5961 South Mooney Boulevard
Visalia, CA 93277

Initial Study and Mitigated Negative Declaration

Foxtail Solar
(PSP 24-065)

February 2025

Prepared by
County of Tulare Resource Management Agency
Economic Development and Planning Branch
Environmental Planning Division

A. 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.

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input checked="" type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Hazards/Hazardous Materials |
| <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources |
| <input checked="" type="checkbox"/> Noise | <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input checked="" type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Wildfire | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

B. DETERMINATION:

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 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: 

Gary A. Mills
Printed Name

Date: 2/26/2025

Chief Planner, Environmental Planning Division
Title

Signature: 

Michael Washam
Printed Name

Date: 2/26/2025

Associate Director, Resource Management Agency
Title