

COUNTY OF TULARE
RESOURCE MANAGEMENT AGENCY



5961 South Mooney Boulevard
Visalia, CA 93277

Rexford Solar Farm Project
Final Environmental Impact Report
SCH# 2020020326

August 2020

Prepared by:



Prepared for:

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

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Rexford Solar Farm
Final Environmental Impact Report (SCH #2020020326)

These attached documents complete the Final Environmental Impact Report (FEIR) for the above referenced project.

- I. Introduction and Responses to Comments (Chapter 10 of the FEIR)
- II. Mitigation Monitoring and Reporting Program (Chapter 8 of the FEIR)
- III. Errata (Corrections made to pages of the Draft EIR)

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10 Introduction and Response to Comments

10.1 Introduction

The Draft Environmental Impact Report (Draft EIR or DEIR or EIR) for the Rexford Solar Farm (Project) was made available for public review and comment for a period of 45 days starting on May 6, 2020, and ending on June 19, 2020. The purpose of this document is to present public comments and responses to comments received on the Project's Draft EIR (SCH # 2020020326).

Individual responses to each of the comment letters received regarding the Draft EIR are included in this chapter. Comments that do not directly relate to the analysis in this document (i.e., that are outside the scope of this document) will be considered.

In order to provide commenters with a complete understanding of the comment raised, the County of Tulare Resource Management Agency (RMA), Planning Branch staff prepared a comprehensive response regarding particular subjects. These comprehensive responses provide some background regarding an issue, identify how the comment was addressed in the Draft EIR, and provide additional explanation/elaboration while responding to a comment. In some instances, these comprehensive responses have also been prepared to address specific land use or planning issues associated with the proposed Project, but unrelated to the EIR or environmental issues associated with the proposed Project.

Comments received that present opinions regarding the Project that are not associated with environmental issues or raise issues that are not directly associated with the substance of the EIR are noted without a detailed response.

10.2 Revisions to the Project

Revisions and clarifications to the DEIR made in response to comments and information received on the DEIR are indicated by ~~strikeout text~~ (e.g. ~~strikeout~~), indicating deletions, and underline text (e.g. underline), indicating additions. Corrections of typographical errors that have been made throughout the document are not indicated by ~~strikeout~~ or underline text. The specific revisions and clarifications are included as Errata pages within this Final EIR (FEIR).

10.3 Public Review of the Draft Environmental Impact Report

Consistent with the California Environmental Quality Act (CEQA), the potential environmental effects of the Rexford Solar Farm Project have been analyzed in a Draft EIR (SCH# 2020020326) dated May 2020. Consistent with Section 15205 of the State CEQA Guidelines, the Draft EIR for the Rexford Solar Farm Project is subject to a public review period. Section 21091(e) of the Public Resources Code specifies a minimum 30-day shortened period for an EIR; however, if an EIR is submitted to the State Clearinghouse (SCH) for review, the review period shall be a minimum of 45-days. Pursuant to CEQA Guidelines and approval by the Office of Planning and Research (OPR), SCH and Planning Unit, the County of Tulare provided a 45-day review period.

The Rexford Solar Farm Project Draft EIR was distributed to responsible and trustee agencies, other affected agencies/departments/branches within the County of Tulare and RMA, interested parties, and

all parties who requested a copy of the Draft EIR in accordance with Section 21092 of the California Public Resources Code. As required by CEQA, a Notice of Availability (NOA) for the Draft EIR was published in the Exeter Sun-Gazette (a newspaper of general circulation) on May 6, 2020.

During the 45-day review period, the Draft EIR and technical studies were made available for review at the Tulare County RMA, 5961 South Mooney Blvd., Visalia, CA 93277. Due to the coronavirus emergency, appointments were required to view the document at RMA.

In addition, the Draft EIR and technical appendices were posted on the following websites:

- Tulare County Web Site:
<https://tularecounty.ca.gov/rma/index.cfm/planning-building/environmental-planning/environmental-impact-reports/rexford-solar-project-19-073/>
- State Clearinghouse Web Site: <https://ceqanet.opr.ca.gov/> (enter the SCH # in the search bar)

10.4 Relevant CEQA Sections (Summary)

Following is a summary of CEQA Guidelines Sections 15088-15384, et. seq. The complete CEQA Guidelines can be accessed at:

[https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I95DAA70D48811DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I95DAA70D48811DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

Section 15088. Evaluation of and Response to Comments.

- (a) The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response...
- (b) The lead agency shall provide a written proposed response... to a public agency on comments made by that public agency at least 10 days prior to certifying...
- (c) The written response shall describe the disposition of significant environmental issues raised... In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail...

Section 15088.5. Recirculation of an EIR Prior to Certification.

- (a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification;
- (b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR; and
- (e) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.

Section 15089. Preparation of Final EIR.

- (a) The Lead Agency shall prepare a final EIR before approving the project. The contents of a final EIR are specified in Section 15132 of these Guidelines.

Section 15090. Certification of the Final EIR.

- (a) Prior to approving a project, the lead agency shall certify that:

- (1) The final EIR has been completed in compliance with CEQA;
- (2) The final EIR was presented to the decision making body ...and that the decision making body reviewed and considered the information contained in the final EIR prior to approving the project; and
- (3) The final EIR reflects the lead agency's independent judgment and analysis.

Section 15091. Findings.

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.
- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.

Section 15092. Approval.

- (b) A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless either:
 - (1) The project as approved will not have a significant effect on the environment, or
 - (2) The agency has
 - (A) Eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091, and
 - (B) Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

Section 15093. Statement of Overriding Considerations.

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Section 15095. Disposition of a Final EIR.

The lead agency shall:

- (a) File a copy of the final EIR with the appropriate planning agency of any city, county, or city and county where significant effects on the environment may occur.
- (b) Include the final EIR as part of the regular project report which is used in the existing project review and budgetary process if such a report is used.
- (c) Retain one or more copies of the final EIR as public records for a reasonable period of time.
- (d) Require the applicant to provide a copy of the certified, final EIR to each responsible agency.

Section 15151. Standards for Adequacy of an EIR.

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

Section 15364. Feasible.

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, and environmental, legal, social, and technological factors.

Section 15384. Substantial Evidence.

"Substantial evidence"... means enough relevant information and reasonable inferences that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

10.5 Response to Comments

10.5.1 Comment Letters Received on the Draft EIR

The County of Tulare received six (6) written comments on the Draft EIR from Responsible or Trustee Agencies (see Attachments 2 through 7). In addition, any correspondence or conversations regarding comments from the public are also provided in this document (see Attachment 8). Each comment letter is also numbered. For example, comment letter 1 is from Department of the Army U.S. Army Corps of Engineers, Sacramento District, May 14, 2020.

Consistent with Section 15132 of the CEQA Guidelines, the following is a list of persons, organizations, and public agencies that submitted comments regarding the Draft EIR received as of close of the public review period on June 19, 2020.

Oral comments were received from or conversations occurred with the following individuals:

None were received.



Comments from Federal, State, or County Agencies:

- Comment Letter 1* *Department of the Army U.S. Army Corps of Engineers, Sacramento District, May 14, 2020 (See Attachment 2)*
- Comment Letter 2* *Department of California Highway Patrol, May 25, 2020 (See Attachment 3)*
- Comment Letter 3* *California Department of Conservation, Geologic Energy Management Division, May 26, 2020 (See Attachment 4)*
- Comment Letter 4* *Department of Transportation, District 6 Office, June 10, 2020 (See Attachment 5)*
- Comment Letter 5* *California Farm Bureau Federation, Legal Services Division, June 18, 2020 (See Attachment 6)*
- Comment Letter 6* *San Joaquin Valley Unified Air Pollution Control District, July 14, 2020 (See Attachment 7)*

Comments from adjacent property owners or other interested parties:

- Comment Letter 7* *Henry (Dave) Nenna, June 15, 2020 (See Attachment 8)*

In addition to the comment letters received, this chapter concludes with a list of agencies, tribes, and other interested persons whom were notified during the Notice of Preparation process and/or received a copy of the NOA for the Draft EIR.

The reader is reminded that the County strictly adheres to and depends upon substantial evidence in drawing conclusions in regards to CEQA documents. Therefore, the County relies on the definition of substantial evidence as provided in CEQA Guidelines Section 15384. (Substantial Evidence) which states: "Substantial evidence"...means enough relevant information and reasonable inferences that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence." As such, the County also expects commenters such as public agencies, public entities, or other interested persons/parties to also adhere with the substantial evidence definition as provided in CEQA Guidelines Section 15384.

10.5.2 Comprehensive List of Responses

Comment Letter 1: Department of the Army U.S. Army Corps of Engineers, Sacramento District, May 14, 2020

Comment #1: We are responding to your May 12, 2020, Notice of Availability of Draft Environmental Impact Report, Rexford Solar Farm (SCH#2020020326). The approximately 3,614-acre project site is located near the community of Ducor in Tulare County, California.

Response: Comment noted; the commenter is correct in their understanding of the project's location.

Comment #2: The Corps of Engineers' jurisdiction within the study area is under the authority of Section 404 of the Clean Water Act for the discharge of dredged or fill material into waters of the United States. Waters of the United States include, but are not limited to, rivers, perennial or

intermittent streams, lakes, ponds, wetlands, vernal pools, marshes, wet meadows and seeps. Project features that result in the discharge of dredged or fill material into waters of the United States will require Department of the Army authorization prior to starting work.

Response: This comment summarizes the Corp's of Engineers jurisdiction under the authority of Section 404 of the Clean Water Act. The County acknowledges that any project activities that result in the discharge of dredged or fill material into waters of the United States will require Department of the Army authorization prior to starting work.

As described in Draft EIR Section 5.4 Biological Resources, the White River crosses a portion the Project Area at its center, there are two ephemeral drainages within the Project Area, isolated wetlands, and an irrigation ditch. However, all of these features have either been determined to be non-navigable waters or would be avoided; therefore, they are not subject to USACE jurisdiction and no Section 404 Clean Water Act permit would be required for project activities (see Draft EIR page 3.4-9).

Comment #3: To ascertain the extent of waters on the project site, the applicant should prepare an aquatic resources delineation, in accordance with the "Minimum Standards for Acceptance of Preliminary Aquatic Resources Delineation Reports" and "Final Map and Drawing Standards for the South Pacific Division Regulatory Program" under "Jurisdiction" on our website at the address below, and submit it to this office for verification. A list of consultants that prepare aquatic resources delineations and permit application documents is also available on our website at the same location.

Response: Please refer to response to comment #2.

Comment #4: The range of alternatives considered for this project should include alternatives that avoid impacts to wetlands or other waters of the United States. Every effort should be made to avoid project features which require the discharge of dredged or fill material into waters of the United States. In the event it can be clearly demonstrated there are no practicable alternatives to filling waters of the United States, mitigation plans should be developed to compensate for any unavoidable loss of aquatic resource functions or services resulting from project implementation.

Response: This comment is acknowledged; however, as indicated in response to comment #2, no waters of the U.S. are located within the project site boundaries, as such, analysis of alternatives that would avoid or minimize impacts to waters of the U.S. is not warranted.

Comment #5: Please refer to identification number SPK-2020-00391 in any correspondence concerning this project. If you have any questions, please contact me at 1325 J Street, Room 1350, Sacramento, California 95814-2922, by email at William.W.Ness@usace.army.mil, or telephone at (916) 557-5268. For more information regarding our program, please visit our website at www.spk.usace.army.mil/Missions/Regulatory.aspx.

Response: Comment noted; we appreciate receiving Mr. Ness' contact information.

Comment Letter 2: Department of California Highway Patrol, May 25, 2020

Comment #1: The Porterville Area Office of the California Highway Patrol received and thoroughly reviewed the "Notice of Completion" of the Environmental document for the proposed Rexford Solar Farm, State Clearing House #2020020326. The proposed transmission and/or collector lines would be located along portions of Road 232, Avenue 56, Avenue 64, Road 240, Avenue 32, Richgrove Drive, and State Route 65; or could possibly utilize additional nearby routings, within Tulare County up to a total of 13 miles in length.

Response: This is an introductory comment and does not address the adequacy of the Draft EIR. As such, no further response is necessary.

Comment #2: The Porterville Area is supportive of the planned project; however, with the increased volumes of traffic relating to the construction, the Porterville Area has concerns involving increased response times, enforcement, and calls for service. The proposed project is due to begin during the fourth quarter of 2021 with heavy construction expected to occur between 6:00 AM and 5:00 PM, Monday through Friday. It is anticipated the project will last for a period of 24 months with an estimated 1,000 workers driving in the area per day during peak construction periods. This added influx of traffic could have a significant impact on the Area's operations due to the increased traffic congestion.

Response: While the project will result in an increase in traffic during construction, as described on Draft EIR page 3.17-7, roadways in the vicinity of the project site will continue to operate at an acceptable level of service both during construction (where the majority of trips would be generated on a short-term basis, and operation). Specifically, as indicated on Draft EIR page 3.17-7, the traffic analysis assumed a worst-case scenario for the Existing plus Construction Conditions scenario by assigning 100 percent of the construction trips to each study area roadway segment individually. With the addition of construction traffic, all study area roadway segments will operate at acceptable LOS D or better (see Draft EIR Table 3.14-4). As all study area roadway segments will not exceed the LOS D threshold, traffic impacts during construction were determined to be less than significant.

The Draft EIR specifically evaluates potential impacts regarding emergency response. As stated on Draft EIR page 3.17-11, "... increased Project-related operational traffic will not cause a significant increase in congestion and will not significantly affect the existing LOS on area roads. Furthermore, the Project will not require closures of public roads, which could inhibit access by emergency vehicles. During construction-related activities of the Project, heavy construction-related vehicles (e.g., heavy duty tractor-trailers) could interfere with emergency response to the site or emergency evacuation procedures in the event of an emergency (e.g., by slowing vehicles traveling behind the truck, which are typically slower to accelerate and require longer distances to stop). However, given that there are very few businesses and residences, and no emergency response stations in the immediate vicinity of the Project site, the intermittent, short-term, and temporary occurrence of heavy construction-related traffic will not result in inadequate emergency access. Therefore, the Project will allow for adequate emergency access during construction- and operation-related activities and a **Less than Significant Impact** will occur."

Comment #3: If you have any questions regarding these concerns, please contact Lieutenant S.P. Goddard at (559) 784-7444.

Response: Comment noted; we appreciate receiving Lt. Goddard's contact information.

Comment Letter 3: California Department of Conservation, Geologic Energy Management Division, May 26, 2020

Comment #1: Public Resources Code (PRC) § 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

Response: The County recognizes that any development of those portions of the project with the presence of the two abandoned wells would be conducted in accordance with the well reabandonment

responsibilities pursuant to Public Resources Code (PRC) § 3208.1, which would ensure that no potential hazards risk associated with the wells would occur.

Comment #2: The Division of Oil, Gas, and Geothermal Resources (Division) has received and reviewed the above referenced project dated 5/22/2020. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the Division provides the following well evaluation.

The project is located in Tulare County, within the boundaries of the following fields:

Any Field

The parcels are not located within any oil field administrative boundaries, however, in addition to the plugged & abandoned well(s), there might be pipelines associated to oil and gas production.

Our records indicate there are 2 known oil or gas wells located within the project boundary as identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 2
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

Response: As indicated on Draft EIR page 3.9-1, a Phase I Environmental Site Assessment (ESA) has been prepared for the project (see Draft EIR Appendix D). Although not considered Recognized Environmental Concerns (REC), two plugged/abandoned oil gas wells identified on the Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR) website are located on APN 321-140-013 (see Figure 2 in Appendix “G” of the Draft EIR). This information (presence of two abandoned wells on-site) is consistent with the information provided in Comment #2 below. According to the CalGEM database, documentation of a prospect well installation and an oil/gas well destruction/abandonment were listed for the two on-site wells. There are no records of any leaks or spills in regard to the on-site wells. Well records are provided as Appendix D of the Phase I report.

Any project activities involving potential disturbance to the abandoned wells, would be the responsibility of the applicant and conducted in compliance with PRC § 3208.1.

Comment #3: The Division categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.

Response: There are no active wells located within the project site. As such, the proposed project would not impede access to oil, gas, or geothermal wells.



Comment #4: There are no guarantees a well abandoned in compliance with current Division requirements as prescribed by law will not start leaking in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The Division acknowledges wells plugged and abandoned to the most current Division requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantees that such abandonments will not leak.

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

Failure to plug and reabandon the well may result in enforcement action, including an order to perform reabandonment well work, pursuant to PRC § 3208.1, and 3224.

Response: As indicated on Draft EIR page 3.9-13, the proposed Project will not involve the demolition of existing on-site structures or the alteration or removal of the on-site irrigation wells or oil gas wells. Further, as explained in response to comment #2, according to the CalGEM database, documentation of a prospect well installation and an oil/gas well destruction/abandonment were listed for the two on-site wells. There are no records of any leaks or spills in regard to the on-site wells.

The County recognizes that any development of those portions of the project with the presence of the two abandoned wells would be conducted in accordance with the well reabandonment responsibilities pursuant to Public Resources Code (PRC) § 3208.1.

Comment #5: PRC § 3208.1 give the Division the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment, or if the well is not accessible or visible. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for reabandonment as:

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

operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the reabandonment.

Response: Comment noted. Please see responses to comments #2 through #5.

Comment #6: No well work may be performed on any oil, gas, or geothermal well without written approval from the Division. Well work requiring approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other re-abandonment work. The Division also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. CCR §1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this regulation, a permit from the Division is required before work can start.

Response: Comment noted. The proposed Project is not anticipated to involve the demolition of existing on-site structures or the alteration or removal of the on-site irrigation wells or oil gas wells; however, the County acknowledges that any well work would require a permit from the Division.

Comment #7: The Division makes the following additional recommendations to the local permitting agency, property owner, and developer: 1. To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, the Division recommends that information regarding the above identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.

Response: Comment noted, the County has notified the Project applicant of the wells located on-site and has provided the applicant this correspondence to inform potential permit requirements and other information identified in the letter. As a condition of approval of the project, the County has required the applicant to include the presence of the wells as part of the title information for the subject parcels where the wells are located.

Comment #8: The Division recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development. As indicated in PRC § 3106, the Division has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to the Division's authority to order work on wells pursuant to PRC §§ 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC §§ 3236, 3236.5, and 3359 for violations within the Division's jurisdictional authority. The Division does not regulate grading, excavations, or other land use issues.

Response: Comment noted. As a condition of approval of the Project, the County has required that soils containing significant amounts of hydrocarbons (above recommended threshold levels) be handled and/or disposed of (as required) in accordance with local, state, and federal laws.

Comment #9: If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Inland district office, and file for Division review an amended site plan with well casing



diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

Response: Comment noted.

Comment #10: Should you have any questions, please contact me at (661) 326-6016 or via email at Victor.Medrano@conservation.ca.gov

Response: Comment noted; we appreciate receiving Mr. Medrano's contact information.

Comment #11: The wells listed below are not abandoned to current Division requirements as prescribed by law, and based upon information provided, are projected to be built over or have future access impeded. **The Division expects these wells to be reabandoned in compliance with current California law, prior to development activities.**

API	Well Designation	Operator	Well Rvaluations
04107201 98	Stockdale-Carlisle 1	Western Continental Operating Company	Surface plug is not adequate (CCR § 1723.5) Note: No well leak test reported.
04107004 05	1	J. O. Lamb	Surface plug is not adequate (CCR § 1723.5) Note: No well leak test reported.

Response: The proposed Project will not involve the demolition of existing on-site structures or the alteration or removal of the on-site irrigation wells or oil gas wells. Please also refer to responses to comments #1 through #10.

Comment Letter 4: Department of Transportation, District 6 Office, June 10, 2020

Intro Comment:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR), proposing a 700-Megawatt (MW) Solar Facility and a 700-Megawatt AC Energy Storage System (ESS) located on 40 separate parcels totaling approximately 3,614 acres. Some of the Project sites are located west and east of the community of Ducor and some are located approximately 2½ miles south of Ducor which are north of the community of Richgrove. The Project sites are generally located south of Avenue 68, north of Avenue 12 and are bisected by State Route (SR) 65.

The DEIR states the following:

- The Project will install a ground mounted PV solar power generating system, supporting structures, inverter modules, pad mounted transformers, ESS, access roads and fencing, and on-site substation.
- The Project will also construct both transmission and collector lines. The transmission/collector lines would be located along portions of Road 232, Avenue 56, Avenue 64, Road 224, Road 240, Avenue 32, Richgrove Drive, and SR 65. The total length of the transmission and/or collector lines would be approximately 13 miles in length.
- The construction period for the Project, from site preparation through construction, testing, and commercial operation, is expected to commence as early as 2021 and could encompass approximately 12 to 24 months.

- Construction-related vehicles will primarily access the Project sites from SR 65 via county roads.

The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

Response: This introductory comment summarizes the general project characteristics and states Caltrans' mission to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. This comment does not address the adequacy of the Draft EIR; therefore, no further response is necessary.

Comment #1: In the DEIR Transportation section under heading 3.17.5 Regulatory Setting, the DEIR states that the June 2002 SR 65 Transportation Concept Report (TCR) was used for Level of Service, Ultimate Transportation Corridor (UTC) and other pertinent information.

Response: Comment noted. Please see response to comment #2.

Comment #2: Please note that in June 2014 the SR 65 TCR was updated.

Response: The County acknowledges that the SR 65 TCR was updated in June 2014. The Draft EIR has been revised to reflect the SR 65 TCR as follows:

Draft EIR page 3.17-6:

Caltrans: Transportation Concept Reports

Caltrans has prepared a number of concept reports for State Routes, Interstate Routes, and US Routes for each District. Tulare County is located in Caltrans District 6. The concept report that applies to the proposed Project is the SR 65 Transportation Concept Report (TCR) prepared in June ~~2002~~ 2014. The Project site lies within Segment 5 consisting of 7 miles from the Kern County Line north to Avenue 56 at Ducor. According to the SR 65 TCR, a Caltrans project involving upgrading of this roadway was completed in 2010.

As of the year ~~2002~~2012, Segment 5 of Route 65 is operating at LOS C. primarily at LOS D and LOS E from Bakersfield to Route 198 in Tulare County. Segment 5 had an LOS of D in 2002. According to the SR 65 TCR, the acceptable Concept LOS is C for SR 65. Segment 5 is expected to operate at ~~LOS B with proposed improvements, which will be widened to a 4-lane Expressway by the year 2025. There will be no residual capacity deficiencies. Additional right-of-way will be required on all segments to meet the Ultimate Transportation Corridor (UTC) of a 6-lane Freeway.~~ LOS D in 2020 and LOS B in 2035. The 2035 Concept LOS (target LOS desired) is LOS C. The 20-25 year facility concept for Segment 5 will be to widen the facility to a four lane expressway.

The County would like to emphasize that these changes do not materially affect the adequacy or conclusions of the Draft EIR.

Comment #3: According to the SR 65 Transportation Concept Report (TCR), segments 5 & 6 of SR 65, in the vicinity of this project, are planned to be widened as a 4-lane expressway within a total of 240 feet of right-of-way (120 feet from the centerline).

Response: Comment noted. This is an introductory comment and does not address the adequacy of the Draft EIR. As such, no further response is necessary.

Comment #4: Caltrans is developing plans to widen SR 65 to a 4-lane divided expressway in a 4-phased construction project from the Tulare/Kern county line north to SR 65/SR 190 interchange.

Response: Comment noted. This is an introductory comment and does not address the adequacy of the Draft EIR. As such, no further response is necessary.

Comment #5: Caltrans and TCAG has completed widening from the SR 65/SR 190 interchange, south to Avenue 124.

Response: Comment noted. This comment does not address the adequacy of the Draft EIR. As such, no further response is necessary.

Comment #6: Phases 3 and 4 of the widening project (in the vicinity of the Solar Project sites) will widen SR 65 with 2 new lanes on the east side of the current highway alignment. This will result in the need for additional right-of-way ranging from approximately 50 feet to 140 feet.

Response: Comment noted. This comment does not address the adequacy of the Draft EIR. As such, no further response is necessary.

Comment #7: Caltrans recommends that a coordination meeting be held with the applicant, Tulare County (lead agency), and Caltrans to discuss the specifics of the widening project and right-of-way impacts to the Project.

Response: The County and project applicant appreciate this comment and will meet with Caltrans regarding potential right-of-way impacts to the project as the project further advances through the approvals and final engineering design phases.

Comment #8: Caltrans anticipates that most of the traffic generated by the Project would be during the construction phase. The Project estimates that up to 1,000 workers per day (during peak construction periods) will be required during the construction phase of the Project.

Response: This comment correctly states that the majority of traffic generated by the project would occur during the construction phase. As indicated in Draft EIR Section 2 Project Description page 2-15, "It is estimated that up to 1,000 workers per day (during peak construction periods) will be required during the construction of the Project." Based on this construction worker estimate construction trip generation is estimated as stated on Draft EIR page 3.17-7:

Construction Trip Generation. The proposed Project is expected to generate a total passenger car equivalent (PCE) volume of approximately 1,226 average daily trips (ADT), which includes 1,075 passenger car trips and 70 heavy vehicle trips per day during construction-related activities. As noted earlier, the construction time frame is estimated to last 12-24 months. As such, trips generated during this phase will be temporary, short-term, and intermittent and will decrease to 50 ADT associated with O&M-related activities upon completion of construction-related activities.

Comparatively, only 50 trips per day are estimated during the operational phase of the Project.

Comment #9: Caltrans requests that construction Traffic Management Plan and Traffic Control Plan be prepared and provided to our office for review prior to the start of construction activities.

Response: We concur. As a condition of project approval, all construction in the public road right-of-way will require the applicant to apply for and obtain an Encroachment Permit through the Road Department. Typically, a construction Traffic Management Plan (which includes provisions for traffic control) will be prepared for the proposed project prior to the commencement of construction activities. As such, this plan will be provided to Caltrans for review for any construction activities that would involve Caltrans facilities.

Comment #10: Once constructed, the Project will operate seven days a week, 24 hours a day. Maintenance of the solar panels may occur seven days a week, 24 hours a day to ensure optimum panel output and require an operational staff of up to 20 full-time employees.

Response: Comment noted. This comment restates the operational characteristics of the proposed project as described and analyzed in the Draft EIR. This comment does not address the adequacy of the Draft EIR; therefore, no further response is necessary.

Comment #11: Caltrans recommends that truck and equipment trips be restricted to off peak traffic hours.

Response: Comment noted. The majority of on-road construction-related vehicular trips would be generated by construction workers traveling to and from the project site. However, as indicated in response to comment Department of California Highway Patrol #2, even with the addition of construction traffic, area roadways would continue to operate at an acceptable level of service. Please also see response to comment #8.

Comment #12: Caltrans recommends that truck/equipment trips should be spaced to avoid vehicle congestion on SR 65 and to minimize interference with commuter traffic.

Response: While the project will result in an increase in traffic during construction, roadways in the vicinity of the project site will continue to operate at an acceptable level of service. Please refer to response to comment Department of California Highway Patrol #2.

Comment #13: Caltrans recommends that direct access to SR 65 for construction related traffic should not be permitted for the Project parcel sites that are directly adjacent to SR 65.

Response: As stated on Draft EIR page 3.17-11, "Construction-related vehicles will primarily access the Project site from existing local roadways, and may also utilize county roads (Avenue 56 and Richgrove Drive). The site will not be accessed directly from SR 65."

Further, no direct access is proposed from SR 65 into the project site. Draft EIR Appendix M Site Plan depicts the proposed site access locations.

Comment #14: Caltrans recommends that water trucks should be present on site and utilized during the construction activities, especially grading and/or earth work to minimize dust in the area.

Response: As indicated on Draft EIR page 3.3-20, the Project applicant will be required to control fugitive dust through compliance with San Joaquin Valley Unified Air Pollution Control District's Regulation VIII (Fugitive PM₁₀ Prohibitions). Regulation VIII is the most robust and stringent regulation regarding control of fugitive dust emissions in the nation. Also, the Draft EIR includes Table 3.3-6 (at Nos. 5.4.2, 6.3.1, 6.3.3, and 6.3.4) which address the use of water trucks and a Dust Control Plan that must be sufficiently implemented to minimize dust. As such, the Draft EIR's discussion concerning dust control remains adequate. .

Comment #15: Caltrans recommends that any personal or construction related vehicles should not be permitted to park along SR 65.

Response: The County will include a condition of approval prohibiting the Applicant from allowing any personal or construction-related vehicles associated with the Project to park along SR 65 throughout the duration of project construction-related activities.

Comment #16: An encroachment permit will be required for work to construct Project transmission and/or collector lines located within or along SR 65.

Response: Comment acknowledged. The Applicant will obtain an encroachment permit, as required, for any construction work necessary for transmission and/or collector lines located within or along SR 65.

Comment #17: An encroachment permit must be obtained for all proposed activities for placement of encroachments within, under or over the State highway rights-of-way. The Streets and Highways Code Section 670 provides Caltrans discretionary approval authority for projects that encroach on the State Highway System. Encroachment permits do not run with the land. A change of ownership requires a new permit application. Only the legal property owner or his/her authorized agent can pursue obtaining an encroachment permit. The Permit Department and the Environmental Planning Branch will review and approve the activity and work in the State right-of-way before an encroachment permit is issued. **Please call the Caltrans Encroachment Permit Office - District 6: 1352 W. Olive, Fresno, CA 93778, at (559) 488-4058.** [emphasis provided by commenter]

Response: Comment noted. The Applicant will obtain an encroachment permit, as required, for any activities within, under or over the State highway rights-of-way. The County acknowledges the general stipulations of the encroachment permit, which will be the responsibility of the project applicant.

Comment #18: Prior to an encroachment permit application submittal, the project proponent is required to schedule a “Pre-Submittal” meeting with District 6 Encroachment Permit Office. **Please contact District 6 Encroachment Permit Office at (559) 488-4058 to schedule this meeting. Please review the permit application checklist at** [emphasis provided by commenter]:

<https://forms.dot.ca.gov/v2Forms/servlet/FormRenderer?frmId=TR0402&distpath=MAOTO&brapath=PERM>

Response: The County acknowledges that the Applicant is required to schedule a “Pre-Submittal” meeting with District 6 Encroachment Permit Office prior to encroachment permit application submittal.

Comment #19: If you have any other questions, please call me at (559) 488-7396.

Response: Comment noted; we appreciate receiving Mr. Deel’s contact information.

Comment Letter 5: California Farm Bureau Federation, Legal Services Division, June 18, 2020

Intro Comment:

The Tulare County Farm Bureau and the California Farm Bureau Federation (collectively “Farm Bureau”) provide the following focused comments on the Rexford Solar Farm Project (“Project”) and its associated draft Environmental Impact Report (“draft EIR”).

The California Farm Bureau Federation is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California’s largest farm organization, comprised of 53 county Farm Bureaus currently representing 33,644 agricultural, associate and collegiate members in 56 counties, including the 1,338 members of the Tulare County Farm Bureau. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

It is not our purpose here to comment on the propriety of the Project as a matter of local planning and zoning, nor to comment generally on solar photovoltaic power generation. Rather, we wish to emphasize key requirements of state law under the Williamson Act that apply to the Project. The

apparent majority of the 3,614-acre Project site is comprised of parcels under active Williamson Act contracts, which currently provide a substantial preferential tax assessment to the landowners in return for the purposes underwritten by the Act. As such, we expect that the County will require that the Project – if approved – comply fully with appropriate Williamson Act procedure and substance. Respectfully, we provide the following specific requirements of the Williamson Act for your review:

Response: Comment noted. Please see responses to comments #1 and #2.

Comment #1:

1. Use Requirements For Williamson Act-Contracted Lands.

As an initial matter, under Government Code section 51242, no county may contract with respect to any land under the Williamson Act unless the land is devoted to agricultural use. That section sets forth the basic orientation of the Williamson Act, which is to enroll lands within agricultural preserves for the preservation of agriculture and associated values.

The Act delegates the counties the authority to establish their own rules regarding the administration of agricultural reserves under Government Code section 51231, including a specification of compatible uses. However, those compatible use rules are specifically required to be consistent with Government Code section 51238.1, which is protective of both agricultural use of individually contracted parcels and the other contracted lands in the vicinity of such a parcel. That section specifically states:

“(a) Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:

- (1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.
- (2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.
- (3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

In evaluating compatibility a board or council shall consider the impacts on noncontracted lands in the agricultural preserve or preserves.

- (b) A board or council may include in its compatible use rules or ordinance conditional uses which, without conditions or mitigations, would not be in compliance with this section. These conditional uses shall conform to the principles of compatibility set forth in subdivision (a) or, for nonprime lands only, satisfy the requirements of subdivision (c). (c) In applying the criteria pursuant to subdivision (a), the board or council may approve a use on nonprime land which, because of onsite or offsite impacts, would not be in compliance with paragraphs (1) and (2) of subdivision (a), provided the use is approved pursuant to a conditional use permit that shall set forth findings, based on substantial evidence in the record, demonstrating the following:

- (1) Conditions have been required for, or incorporated into, the use that mitigate or avoid those onsite and offsite impacts so as to make the use consistent with the principles set forth in paragraphs (1) and (2) of subdivision (a) to the greatest extent possible while maintaining the purpose of the use.
- (2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.
- (3) The use is consistent with the purposes of this chapter to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve. The use of mineral resources shall comply with Section 51238.2.
- (4) The use does not include a residential subdivision.”

With apologies for quoting the foregoing section *in toto*, we submit that this section is key to understanding the placement of non-agricultural uses within agricultural preserves under the Williamson Act, and should guide the County in its administration of the Williamson Act contracts covering the Project lands unless an option for terminating the contracts is pursued to facilitate Project approval.

Response 1: This Special Use Permit is conditioned upon and will not be 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.

Specifically, as a condition of project approval (special use permit condition), the County will require the applicant to provide payment for loss of Williamson Act Subventions. The County will require that the applicant pay to County the amount of any losses (including losses for any partial tax year) in state subventions associated with real property taxes assessed pursuant to the California Agricultural Land Conservation Act of 1965, also known as “the Williamson Act” (Government Code, §§ 51200 *et seq.*). This condition of approval will include that the applicant shall not be required to pay for any subvention losses (a) if there is no subvention loss suffered during any fiscal year occurring within the duration of each special use permit, or (b) if the land conservation contract expires or is cancelled pursuant to law. Any cancellation fees shall be paid to the state of California.

The condition of approval will stipulate that the applicant shall pay any annual subvention losses upon thirty (30) days written notice provided by the County. In determining the amount of any subvention losses, the County may consult with the County Assessor and Auditor-Controller. In determining said losses, if any, County shall consider and include any and all lease revenue accruing to land affected by the Williamson Act. In addition to future subvention losses, within 45 days of signing the developer agreement, the applicant will be required to pay for the project property backdated subvention losses in the amount of determined by the County.

Comment #2:

2. Alternatives for Williamson Act Contract Termination.

Where compatible use is not indicated on a Williamson Act parcel, any extant contract must be terminated through either non-renewal or cancellation prior to the beginning of a new land use which is incompatible with agriculture. Non-renewal is the preferred method of exiting a Williamson Act

contract, and is entirely at the election of the landowner or county. Cancellation is reserved for exigent circumstances, and requires a county to make very specific findings which are supported by substantial evidence.

There is a further option in the case of proposed solar projects: contract rescission in favor of a solar use easement, where certain specified findings can be made with respect to the project soils and water supply. This process requires application to the county, as well as a determination that the land is of marginal productivity by the state Department of Conservation. This option was enacted into law by Senate Bill 618 in 2011.

It does not appear that the Project applicant has either entered into the contract non-renewal process for the affected lands or pursued contract cancellation; neither does it appear that contract rescission and appropriate solar-use easements have been considered. As such, if the Project is approved, the substantial acreage involved which is enrolled in ongoing Williamson Act contracts will continue to receive substantial tax benefits under a program designed to serve agricultural goals. Whether this is appropriate policy or not is an open question; regardless, if approved, the solar use of these parcels must comport with the clear requirements of Government Code section 51238.1 as to surrounding agriculture.

Response: As a condition of project approval, the applicant 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. The property owner shall sign a Right to Farm Notice and return it to the Resource Management Agency within 10 days so that the notice can be recorded with the Resolution approving this Special Use Permit, with the Tulare County Recorder's Office.

Comment #3: Farm Bureau appreciates your consideration of the foregoing, and the County's continuing commitment to both agriculture in general and the Williamson Act in particular.

Response: Comment noted; we appreciate Farm Bureau sharing the same commitments to agriculture as the County.

Comment Letter 6: San Joaquin Valley Unified Air Pollution Control District, July 14, 2020

Intro Comment: The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the project referenced above from the County of Tulare (County). The project consists of the construction and operation of an up to 700 megawatt alternative current (MW AC) solar photovoltaic (PV) facility and up to 700 AC energy storage system (ESS) (Project). The Project is located at approximately 3,614 acres of land in unincorporated south-central Tulare County, CA (APN 321-190-001, 321-040-025, 321-040-008, 323-040-007, 321-070-014, 321-070-026, 321-040-011). The District offers the following comments:

Response: Comment noted; the District is correctly restating the Project.

Comment #1:

1. District Rule 9510 (Indirect Source Review)

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

When subject to the rule, an Air Impact Assessment (AIA) application is required prior to applying for project-level approval from a public agency. At this time, the District has no record that an AIA application has been submitted. Please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510.

In addition, the District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit, be made a condition of Project approval.

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

Information about how to comply with District Rule 9510 can be found online at:

<http://www.valleyair.org/ISR/ISRHome.htm>

The AIA application form can be found online at:

<http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>

Response: Comment noted. The County has advised the project applicant that compliance with District Rule 9510 is required, that an AIA application will be required, and demonstration of compliance with District Rule 9510 will be required. Additionally, Draft EIR page 3.3-22 summarizes District Rule 9510, and as described on pages 3.3-22 and 3.3-23, Tulare County General Plan Policy AQ-2.2 Indirect Source Review, “The County shall require major development projects, as defined by the SJVAPCD, to reasonably mitigate air quality impacts associated with the project. The County shall notify developers of SJVAPCD Rule 9510 – Indirect Source Review requirements and work with SJVAPCD to determine mitigations, as feasible...”.

As shown in **Table 3.3-8**, compliance with SJVAPCD Rule 9510 will reduce annual emissions of NO_x to 9.7 tons/year, which will not exceed SJVAPCD’s NO_x threshold. No other criteria pollutant threshold will be exceeded during construction with or without adherence to SJVAPCD Rule 9510.

Comment #2:

2. District Rules and Regulations

- A. This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. Prior to construction, the Project proponent should submit to the District an application for an Authority to Construct (ATC). For further information or assistance, the project proponent may contact the District’s Small Business Assistance (SBA) Office at (559) 230-5888.
- B. The Project may also be subject to District rules and regulations, including: Regulation VIII (Fugitive PM₁₀ Prohibitions), Rule 4102 (Nuisance), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the Project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).
- C. The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District’s Small Business Assistance (SBA) Office at (559) 230-5888.

Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm

Response: The County appreciates receipt of this information and will work with the applicant to ensure applicable District rules, regulations, permitting, etc., are adhered to. EIR pages 3.3-21 and 3.3-22 summarize the District's policies and regulations. Please refer to response to comment #1.

Comment #3: If you have any questions or require further information, please contact Cherie Clark by e-mail at Cherie.Clark@valleyair.org or by phone at (559) 230-5940.

Response: Comment noted; the County appreciates Ms. Clark's contact information.

Comment Letter 7: Henry (Dave) Nenna, June 15, 2020

Comment #1: Photos that were a part of the submittal did not portray some of the actual area, only the area best suited for a positive outcome.

Response: A visual analysis was prepared for the proposed project in accordance with CEQA and in consideration of County policies as provided in Draft EIR Section 3.1 Aesthetics. As explained on Draft EIR page 3.1-2, a site reconnaissance was conducted to identify visual resources in the general Project area, including the Project site. Viewpoints within the general Project area were selected based on the potential to see the site from surrounding areas and are considered the worst-case condition (for public viewing), as they would be most visible to the general public at these locations. As shown in Draft EIR Figures 3.1-2 through 3.1-7, the existing visual character of the Project site is dominated by rural agricultural lands. These photos depict similar visual characteristics as would be seen from the commenter's property. As stated on Draft EIR page 3.1-16, "The photo simulations presented are by no means representative of all views affected. They are included to provide the reader with a better overall sense of Project changes to the existing environment as well as to help visualize public perception and responses to these changes."

There are no designated scenic vistas within the Project vicinity that will be affected by the Project. The profiles of solar photovoltaic panels are limited to 8 feet high at full tilt (the panels will not be at full tilt the majority of the day as they track the sun); therefore, the height would be lower than 8 feet the majority of the day). The Project will include structures (e.g., panels, transmission lines, collector lines, etc.) that are similar to existing utility infrastructure in the area. Given these facts, implementation of the proposed Project will not adversely affect any scenic vistas.

Further, there are no designated state scenic highways in the Project vicinity or in Tulare County. Portions of State Routes 190, 198, and 80 are eligible for state scenic highway designation, but are not located in the Project vicinity. The Project site is not visible from any of the Tulare County eligible state scenic highways. The nearest eligible scenic highway is State Route 190, located approximately 9.75 miles north of the Project site.

Comment #2: Minimal noise of 44db in front of my home while the panels track, this will go on throughout the day.

Response: Noise measurements were taken at locations to provide a representative range of ambient noise levels across the Project site and in the nearby area, especially near existing noise-sensitive residences and roadways. The existing noise levels in the project area range from 35 up to 67 dBA leq. As shown on Draft EIR Table 3.13-6 (see page 3.13-13) the calculated noise level for this specific residential property with project operations, located in an agricultural zone is 52-58 dBA ldn, well below the noise standard.

Further, as described on Draft EIR page 3.13-13, PV panel noise will come from the tracking motors. While these motors may generate noise of up to 44 dBA at 50 feet, these motors will operate briefly throughout an hour (e.g., several minutes per hour) as the sun moves west across the sky, and then will reset at night to face the eastern sky. For example, tracking motors operating for five minutes out of an hour will result in an hourly noise level of 33 dBA at 50 feet. The nearest sensitive noise receptors to the Project site are located approximately 150 feet from the project site (Draft EIR page 3.13-9). Therefore, by operating only several minutes per hour, the hourly noise level will be well below the existing ambient noise levels at the nearest sensitive receivers. In addition, as observed during a site visit to existing solar farms in Kern County on September 19, 2019 by Bill Vosti, a Rincon Consultants, Inc. qualified noise expert (whom prepared the Noise Study contained in Appendix I of the Draft EIR), noise levels from PV panel tracking were not detected over existing ambient noise sources such as wind, vehicles, planes, and trains just outside of the observed solar farm properties, which are similar in layout and construction to the proposed Project. Therefore, noise levels from the PV panels will be less than significant.

Comment #3: What distraction will the reflection of the panels create for pilots flying the Tule VOR using runway 30 at Porterville airport? I am a pilot as well as many of my associates that may have the same concern.

Response: As stated on Draft EIR page 3.9-13, the Project site is not located within an area covered by an airport land use plan or within two miles of a public airport or public use airport. The Porterville Municipal Airport is located approximately 7.6 miles north of the Project site. The San Joaquin Sprayers Incorporated Heliport is located approximately 6.12 miles southwest of the Project site. Therefore, the Project will not interfere with airport operations or results in a safety hazard for people residing or working in the Project area. Thus, no significant impact will occur.

The proposed project is not located within an airport compatibility zone that would restrict the type of development that could occur due to potential conflicts with airport operations. Based on review of the Tulare County Comprehensive Airport Land Use Plan (CALUP), (December 2012), the proposed project is not located within the Airport Influence Area as illustrated on Figure PVT-2 of the CALUP. Although not located within either the airports' designated Safety Zone 6 or the Airport Influence Area, as identified on Table 3-1 Tulare County Airport Land Use Compatibility, "Electric Power Plants (including wind turbines and solar) and overhead transmission lines" are identified as "Compatible" land uses within both Safety Zone 6 and the Airport Influence Area.

As explained on Draft EIR page 3.1-25, the proposed Project will involve the installation of PV solar systems, which convert sunlight directly into electricity, and by their sheer nature, are non-reflective. "By nature, PV panels are designed to absorb as much of the solar spectrum as possible in order to convert sunlight to electricity and are furnished with anti-reflective coating for that purpose. Reflectivity levels of solar panels are decisively lower than standard glass or galvanized steel, and should not pose a reflectance hazard to area viewers." Other glare sources in nature (free water surfaces) have a higher glare effect than PV modules. "Reflected light from standard PV modules' surface is between 10 to 20 percent of the incident radiation (as low as free water surfaces), while galvanized steel (used in industrial roofs) is between 40 to 90 percent. The Project will generally avoid the use of materials, such as fiberglass, aluminum or vinyl/plastic siding, galvanized products, and brightly painted steel roofs, which have the potential to create on- and off-site glare impacts.

One measure of reflectivity is albedo—the ratio of solar radiation across the visible and invisible light spectrum reflected by a surface. Albedo varies between 0, a surface that reflects no light, and 1, a mirror-like surface that reflects all incoming light. Solar panels with a single anti-reflective coating have

a reflectivity of approximately 0.13 (Good Company 2011). By comparison, sand has an albedo between 0.15 and 0.45 and agricultural vegetation has an albedo between 0.18 and 0.25. Given the project sites distance from the Porterville Airport, the project would not use materials that would reflect significant levels of glare or glint upwards in a manner that could affect flight operations.

Comment #4: Will the panels produce harmonic noise when in production? At the Porterville solar farm off West Ave., Driving past you lose all radio signal, will this also interfere with aviation traffic while on short final to Porterville?

Response: No harmonic noise will be produced by the PV panels or transmission lines and therefore the project would not interfere with radio frequencies. Solar projects are commonly constructed in proximity to airports as they are considered a compatible use, as they are for the Porterville Airport (see response to comment #3).

Comment #5: According to the proposed layout of the panel grid, they will be directly in front of my house, I will no longer have my beautiful open view that was a consideration when we purchased our home over 20 years ago.

Response: This comment is acknowledged. Please refer to response to comment #1.

Comment #6: Being this close to these panels, will this have a negative impact on my property value?

Response: Potential changes in property values as a result of a project are not required to be analyzed in accordance with the California Environmental Quality Act. As such, no further response is necessary.

Comment #7: My home is equipped with 32 roof mounted panels, at my age it is difficult to keep them clean because of the dust, during construction my panels will require more frequent maintenance/cleaning. The dust abatement mitigation is imperfect, will measure be taken to water more frequent during construction.

Response: The project applicant will be required to control fugitive dust through compliance with Regulation VIII (Fugitive PM₁₀ Prohibitions) and Rule 8021, Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities. Rule 8021 requires dust reduction techniques, such as watering, to sufficiently limit visible dust emissions. Draft EIR Table 3.3-6 (see Draft EIR page 3.3-21), provides the various control measures required to be implemented during construction activities. These measures include, but are not limited to, activities such as pre-watering the site, phasing work to reduce the amount of area of disturbance during any one time, applying water or chemical/organic stabilizers/suppressants to unpaved haul/access roads and unpaved vehicle/equipment traffic areas, limiting construction vehicle speeds, preparation of a dust control plan for approval by the Air District. Lastly, commenter's home is located upwind (north) of the Project site whereas prevailing winds typically originate from the northwest flowing southeast thereby pushing potential fugitive dust away from the home site.

Comment #8: The document mentions landscape, it does not elude to the nature of type, it does [not] have any mitigation measures for a home this close to the proposed project.

Response: As indicated in Draft EIR Section 3.1 Aesthetics (see Draft EIR page 3.1-13, the Tulare County General Plan has several policies that apply to projects within the County of Tulare. This includes General Plan policy SL-1.1 Natural Landscapes which states:

SL-1.1 Natural Landscapes. During review of discretionary approvals, including parcel and subdivision maps, the County shall as appropriate, require new development to

not significantly impact or block views of Tulare County's natural landscapes. To this end, the County may require new development to:

3. Be sited to minimize obstruction of views from public lands and rights-of-ways,
4. Be designed to reduce visual prominence by keeping development below ridge lines, using regionally familiar architectural forms, materials, and colors that blend structures into the landscape,
5. Screen parking areas from view,
6. Including landscaping that screens the development,
7. Limit the impact of new roadways and grading on natural settings, and
8. Include signage that is compatible and in character with the location and building design.

The project will comply with applicable policies for landscaping and requirements of the zone for the project.

Comment #9: What if any health issues will there be? Is there any case study of people living this close? Will there be long term effects?

Response: The solar energy facility is a renewable form of power generation that does not generate any harmful emissions. Therefore, the operation of the facility would not pose any health risk. Solar PV panels and arrays, and supporting infrastructure, as proposed under the proposed project, are similar to the types of solar photovoltaic systems installed on rooftops and/or parking lots of residential, schools, commercial, and industrial land uses.

Potential health issues associated with the proposed project would be limited to potential effects to sensitive receptors located in the vicinity of construction-related activities during the construction phase of the project only. Draft EIR Section 3.3 Air Quality addresses the potential health effects including air pollutants of concern – ozone, nitrogen dioxide, carbon monoxide, particulate matter (PM₁₀ and PM_{2.5}), sulfur dioxide, and reactive organic gases. Additionally, other potential health effects addressed in the Draft EIR include toxic air contaminants, diesel particulate matter, and naturally occurring asbestos.

The San Joaquin Valley Unified Air Pollution Control District (SJVAPCD or Air District) considers hospitals, schools, parks, playgrounds, daycare centers, nursing homes, convalescent facilities, and residential areas as sensitive receptors. As identified in the Draft EIR, the sensitive receptors with the highest potential to be affected by the Project include residential land uses located in the community of Ducor, within one mile (5,280 feet) of the Project site. While there are several agricultural properties adjacent to the Project site, there are four rural residences located within 500 feet of the Project site. The nearest sensitive receptor to the Project site is a rural residence located approximately 90 feet southwest of the Project Site boundary across Road 224 (see Draft EIR Figure 3.3-1, Draft EIR page 3.3-12). Compliance with SJVAPCD Rule 9510 will reduce annual construction emissions below the Air District's NO_x threshold. No other criteria pollutant threshold will be exceeded during construction with or without adherence to Air District Rule 9510.

Further, with respect to potential health effects associated with carbon monoxide, even at the high end of the daily traffic volume (i.e., 6,742), vehicle trips will not result in a CO hotspot due to the small magnitude of emission sources and the low emission rates that occur due to catalytic converters. Additionally, the Project site is located in a rural flat area where air dispersion is not impeded by

buildings or nearby terrain; therefore, CO emissions generated will disperse rapidly and construction traffic will not generate CO hotspots and the potential impact was determined to be less than significant.

With respect to Diesel Particulate Matter (DPM), construction of the proposed Project will require use of heavy-duty construction equipment and diesel trucks which will emit DPM. The carcinogenic and chronic health risks at the PMI and MEIR are provided in Draft EIR Table 3.3-12 (see page 3.3-37). As shown, excess cancer risk and chronic risk associated with Project construction and decommissioning will not exceed the risk criteria (2.00E-05) at the receptor grid MEIR even if construction occurred at all parcels simultaneously. Additionally, the SJVAPCD reviewed the air quality analysis provided in Draft EIR and did not identify any potential DPM or other health risk impacts associated with the Project.

Project operation will not result in adverse health impacts.

Comment #10: These are only a few questions and concerns I have on such short notice, thank you for allowing this letter to be a part of the record in behalf of myself and my wife.

Response: Comment noted. The Draft EIR was made available for public review for a period of 45-days in accordance with State requirements. The County complied with all applicable public noticing requirements. Additional noticing will be provided as the project gets closer to a hearing.

10.6 Project Summary

The County of Tulare is considering approval of the proposed Rexford Solar Farm Project to allow the construction and operation of a 3,614-acre photovoltaic (PV) solar energy facility near the unincorporated community of Ducor. Power generated by the Project will be collected using up to 230 kilovolt collector lines which run overhead and/or underground to a dedicated Project substation and will then connect to the Southern California Edison (SCE) Vestal Substation via an overhead and/or underground generation tie-line.

10.7 Local Regulatory Context

The Tulare County General Plan Update 2030 was adopted on August 28, 2012. As part of the General Plan, an EIR, and an accompanying Background Report were also prepared. The General Plan Background Report contained contextual environmental analysis for the General Plan Update. The Housing Element for 2009-2014 was adopted on May 8, 2012, and certified by the State of California Department of Housing and Community Development on June 1, 2012. The Health and Safety Element was amended November 15, 2016, under GPA 16-004.

10.8 Scope and Methodology

The County of Tulare has determined that a project level EIR fulfills the requirements of CEQA and is the appropriate level evaluation to address the potential environmental impacts of the proposed Project. A project level EIR is described in Section 15161 of the State CEQA Guidelines as one that examines the environmental impacts of a specific development project. A project level EIR must examine all phases of the project, including planning, construction, and operation.

This document addresses environmental impacts to the level that they can be assessed without undue speculation (CEQA Guidelines Section 15145). The degree of specificity in an EIR corresponds to the degree of specificity of the underlying activity being evaluated (CEQA Guidelines Section 15146). Also, the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such

as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project (CEQA Guidelines Sections 15151 and 15204(a)).

CEQA Guidelines Section 15002(a) specifies that, “[t]he basic purposes of CEQA are to:

- (1) Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.
- (2) Identify ways that environmental damage can be avoided or significantly reduced.
- (3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.
- (4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.”¹

CEQA Guidelines Section 15002(f) specifies that, “[a]n environmental impact report (EIR) is the public document used by the governmental agency to analyze the significant environmental effects of a proposed project, to identify alternatives, and to disclose possible ways to reduce or avoid the possible environmental damage... An EIR is prepared when the public agency finds substantial evidence that the project may have a significant effect on the environment... When the agency finds that there is no substantial evidence that a project may have a significant environmental effect, the agency will prepare a “Negative Declaration” instead of an EIR...”²

Pursuant to CEQA Guidelines Section 15021 Duty to Minimize Environmental Damage and Balance Competing Public Objectives:

- “(a) CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.
- (1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.
 - (2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.
- (b) In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors.
- (c) The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.
- (d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of

¹ CEQA Guidelines, Section 15002(a).

² Ibid. Section 15002(f).

competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.”³

10.9 Identification of Potentially Significant Impacts

CEQA Guidelines Section 15002(h) addresses potentially significant impacts, to wit, “CEQA requires more than merely preparing environmental documents. The EIR by itself does not control the way in which a project can be built or carried out. Rather, when an EIR shows that a project could cause substantial adverse changes in the environment, the governmental agency must respond to the information by one or more of the following methods:

- (1) Changing a proposed project;
- (2) Imposing conditions on the approval of the project;
- (3) Adopting plans or ordinances to control a broader class of projects to avoid the adverse changes;
- (4) Choosing an alternative way of meeting the same need;
- (5) Disapproving the project;
- (6) Finding that changing or altering the project is not feasible; and,
- (7) Finding that the unavoidable significant environmental damage is acceptable as provided in Section 15093.”⁴ (See Chapter 7)

This *Final EIR* identifies potentially significant impacts that will be anticipated to result from implementation of the proposed Project. Significant impacts are defined as a “substantial or potentially substantial, adverse change in the environment.”⁵ Significant impacts must be determined by applying explicit significance criteria to compare the future plan conditions to the existing environmental setting.⁶

The existing setting is described in detail in each resource section of Chapter 3 of this document and represents the most recent, reliable, and representative data to describe current regional conditions. The criteria for determining significance are also included in each resource section in Chapter 3 of this document.

10.10 Consideration of Significant Impacts

Pursuant to CEQA Guidelines Section 15126.2, “[a]n EIR shall identify and focus on the significant effects of the proposed project on the environment. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the

³ Op. Cit. Section 15021.

⁴ Op. Cit. Section 15002(h).

⁵ Public Resources Code Section 21068.

⁶ CEQA Guidelines, Section 15126.2(a).

human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the project might cause or risk exacerbating by bringing development and people into the area affected.”⁷

As the Project will have no significant and unavoidable effects; a Statement of Overriding Considerations is not necessary or required as part of this Final EIR.

10.11 Mitigation Measures

CEQA Guidelines Section 15126.4 specifies that:

“(1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

(A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

(B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project’s environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards.

(C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix "F."

(D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.)

(2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

(3) Mitigation measures are not required for effects which are not found to be significant.

⁷ Ibid. Section 15126.2.

- (4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:
 - (A) There must be an essential nexus (i.e., connection) between the mitigation measure and a legitimate governmental interest. *Nolan v. California Coastal Commission*, 483 U.S. 825 (1987); and
 - (B) The mitigation measure must be “roughly proportional” to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measures in an ad hoc exaction, it must be “roughly proportional” to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal. 4th 854.
- (5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency’s determination.”⁸

10.12 Organization of the EIR

With the exception of Chapter 10, Response to Comments, the EIR consists of the following sections:

Executive Summary

The Executive Summary Chapter provides a summary of the proposed Project, including a summary of Project impacts, mitigation measures, and Project alternatives.

Chapter 1

Chapter 1 provides a brief introduction to the Environmental Analysis required by CEQA.

Chapter 2

Chapter 2 describes the proposed Project. The chapter also includes the objectives of the proposed Project. The environmental setting is described and the regulatory context within which the proposed Project is evaluated is outlined.

Chapter 3

Includes the Environmental Analysis in response to each Checklist Item. Within each analysis the following is included:

Summary of Findings

Each chapter notes a summary of findings.

Introduction

Each chapter will begin with a summary of impacts, pertinent CEQA requirements, applicable definitions and/or acronyms, and thresholds of significance.

Environmental Setting

Each environmental factor analysis in Chapter 3 will outline the environmental setting for each environmental factor. In addition, methodology is explained when complex analysis is required.

Existing Conditions

⁸ Op. Cit. Section 15126.4.

Each environmental factor analysis in Chapter 3 will outline the existing conditions for each environmental factor.

Regulatory Setting

Each environmental analysis topic in Chapter 3 will outline the regulatory setting for that resource.

Project Impact Analysis

Each evaluation criteria will be reviewed for potential Project-specific impacts.

Cumulative Impact Analysis

Each evaluation criteria will be reviewed for potential cumulative impacts.

Mitigation Measures

Mitigation Measures will be proposed as deemed applicable.

Conclusion

Each conclusion will outline whether recommended mitigation measures will, based on the impact evaluation criteria, substantially reduce or eliminate potentially significant environmental impacts. If impacts cannot be mitigated, unavoidable significant impacts will be identified.

Chapter 4

Chapter 4 summarizes the cumulative impacts addressed in Chapter 3.

Chapter 5

Chapter 5 describes and evaluates alternatives to the proposed Project. The proposed Project is compared to each alternative, and the potential environmental impacts of each are analyzed.

Chapter 6

Chapter 6 evaluates or describes CEQA-required subject areas: Economic Effects, Social Effects, and Growth Inducement.

Chapter 7

Chapter 7 evaluates or describes CEQA-required subject areas: Environmental Effects That Cannot be Avoided, Irreversible Impacts, and Statement of Overriding Considerations.

Chapter 8

Chapter 8 provides a mitigation monitoring and reporting program that summarizes the environmental issues, the significant mitigation measures, and the agency or agencies responsible for monitoring and reporting on the implementation of the mitigation measures.

Chapter 9

Chapter 9 lists all the individuals and companies involved in the preparation of the EIR, as well as individuals and agencies consulted and cited in the EIR.

Chapter 10

Chapter 10 contains the Response to Comments received on the Draft EIR during the 45-day review period.

Technical Appendices

Following the text of this EIR, several appendices (A through M) which contain technical studies or other reference materials have been included as part of the EIR.

10.13 Environmental Review Process

Pursuant to CEQA Guidelines §15082, the Notice of Preparation (NOP) for the proposed Project was circulated for review and comment on February 14, 2020 and circulated for a 30-day comment period ending March 16, 2020. Tulare County RMA received (7) seven comment letters on the NOP. Comments were received from the following agencies, individuals, and/or organizations:

- Native American Heritage Commission
- Santa Rosa Rancheria
- State of California Department of Toxic Substances Control
- State of California Department of Transportation
- State of California Department of Fish and Wildlife
- Tule River Tribe
- Tulare County Farm Bureau

A copy of the NOP is included in Appendix “L” of this EIR, along with copies of letters received in response to the NOP.

Consistent with CEQA Guidelines Section 15103, “Responsible and Trustee Agencies, and the Office of Planning and Research shall provide a response to a Notice of Preparation to the Lead Agency within 30 days after receipt of the notice. If they fail to reply within the 30 days with either a response or a well justified request for additional time, the lead agency may assume that none of those entities have a response to make and may ignore a late response.”⁹

A scoping meeting was duly noticed in a newspaper of general circulation and held on March 5, 2020. No comments were received during this meeting.

Section 15093 of the State CEQA Guidelines requires decision-makers to balance the benefits of a proposed project against any unavoidable adverse environmental effects of the project. If the benefits of the project outweigh the unavoidable adverse environmental effects, then the decision-makers may adopt a statement of overriding considerations, finding that the environmental effects are acceptable in light of the project’s benefits to the public.

As noted in CEQA Guidelines § 15105 (a), a Draft EIR that is submitted to the State Clearinghouse shall have a minimum review period of 45 days. This *Draft EIR* was circulated publicly for comment beginning on May 6, 2020. Following completion of the 45-day public review period ending on June 19, 2020, staff prepared responses to comments and a Final EIR has been completed. The Final EIR was forwarded to the County of Tulare Planning Commission (Commission) for review for either certification and adoption of the Final EIR and approval for the Rexford Solar Farm Project or for denial of the Project. Pending appeal to the Board of Supervisors, if the Commission approves the Project, a Notice of Determination will then be filed with the County Tulare County Clerk and also forwarded to the State of California, Office of Planning and Research.

⁹ CEQA Guidelines, Section 15103.



10.14 Organizations Consulted

Appendix “L” of the Draft EIR contains the NOP process, which includes a list of the agencies receiving the NOP. Attachment 1 includes a table identifying the recipients of the NOA.

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Attachment 1.

Notice of Availability Tracking Table

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NOTICE OF AVAILABILITY – REXFORD SOLAR FARM (PSP 19-073) – SCH# 2020020326

		DOCUMENTS SENT				DELIVERY METHOD				COMMENTS RECEIVED
AGENCY / ENTITY		Cover Letter	NOC	NOA	DEIR	E-mail	Hand Delivered / Interoffice	FedEx	US Mail	
AVAILABILITY OF PUBLIC VIEWING										
Tulare County Resource Management Agency 5961 S. Mooney Blvd. Visalia, CA 93277-9394				X	X		X			
Tulare County Website: https://tularecounty.ca.gov/rma/index.cfm/planning-building/environmental-planning/environmental-impact-reports/rexford-solar-project-19-073/										
STATE CLEARINGHOUSE (Agencies below were marked with "X" on the NOC)			NOC & electronic form	X	X	Direct upload				
<ul style="list-style-type: none"> Air Resources Board 										
<ul style="list-style-type: none"> California Energy Commission 										
<ul style="list-style-type: none"> California Highway Patrol 										see below
<ul style="list-style-type: none"> Caltrans District #6 										see below
<ul style="list-style-type: none"> Department of Conservation 										5/26/20, comment letter received from Chris Jones, Acting District Deputy; Victor.Medrano@conservation.ca.gov
<ul style="list-style-type: none"> Department of Fish and Wildlife Region #4 										
<ul style="list-style-type: none"> Department of Food and Agriculture 										
<ul style="list-style-type: none"> Department of Forestry and Fire Protection 										
<ul style="list-style-type: none"> Department of General Services 										
<ul style="list-style-type: none"> Native American Heritage Commission 										
<ul style="list-style-type: none"> Office of Historic Preservation 										
<ul style="list-style-type: none"> Public Utilities Commission 										
<ul style="list-style-type: none"> Regional Water Quality Control Board District #5F 										
<ul style="list-style-type: none"> Resources Agency 										
<ul style="list-style-type: none"> State Water Resources Control Board – Water Quality 										
<ul style="list-style-type: none"> Department of Toxic Substances Control 										
MILITARY										
Mr. David S. Hulse Naval Facilities Engineering Command Community Plans Liaison Officer (CPLO) 1220 Pacific Highway AM-3 San Diego, CA 92132				X					5/6/20	
FEDERAL AGENCIES										
U.S. Army Corps of Engineers Sacramento District 1325 J Street, Room 1350 Sacramento, CA 95814-2922				X					5/6/20	5/14/20, comment letter received from William Ness, Senior Project Manager, William.W.Ness@usace.army.mil

NOTICE OF AVAILABILITY – REXFORD SOLAR FARM (PSP 19-073) – SCH# 2020020326

	DOCUMENTS SENT				DELIVERY METHOD				COMMENTS RECEIVED
AGENCY / ENTITY	Cover Letter	NOC	NOA	DEIR	E-mail	Hand Delivered / Interoffice	FedEx	US Mail	
U.S. Fish and Wildlife Service Sacramento Fish & Wildlife Office 2800 Cottage Way, Room W-2605 Sacramento, CA 95825-1846			X					5/6/20	
U.S. Forest Service Region 5 – Pacific Southwest Office 1323 Club Drive Vallejo, CA 94592			X					5/6/20	
Natural Resources Conservation Service Visalia Service Center Attn: Lurana Strong, District Conservationist 3530 W. Orchard Ct. Visalia, CA 93277-7055 lurana.strong@usda.gov			X		5/7/20			5/6/20	
STATE & REGIONAL AGENCIES									
California Highway Patrol – Visalia Area Attn: David Gilmore, Captain dagilmore@chp.ca.gov			X		5/7/20				
California Highway Patrol Central Division (481) Porterville Office 861 W. Morton Ave. Porterville, CA 93257-3185			X					5/6/20	5/25/20, comment letter received from Lieutenant Commander S.P. Goddard.
California Farm Bureau Federation Attn: Christian Scheuring cscheuring@cbbf.com			X		5/7/20				6/18/20, comment letter received from Christian C. Scheuring, Managing Counsel; also signed by Tricia Stever Blattler of Tulare County Farm Bureau
California Department of Fish and Wildlife Region 4 – CEQA Submittal 1234 E. Shaw Ave Fresno CA 93710 R4CEQA@wildlife.ca.gov			X		5/7/20			5/6/20	
Caltrans – District 6 Attn: Michael Navarro 1352 W. Olive Ave. Fresno, CA 93778 michael.navarro@dot.ca.gov david.deel@dot.ca.gov			X		5/7/20			5/6/20	6/10/20, comment letter received from David Deel, Associate Transportation Planning, Transportation Planning - North

NOTICE OF AVAILABILITY – REXFORD SOLAR FARM (PSP 19-073) – SCH# 2020020326

	DOCUMENTS SENT				DELIVERY METHOD				COMMENTS RECEIVED
AGENCY / ENTITY	Cover Letter	NOC	NOA	DEIR	E-mail	Hand Delivered / Interoffice	FedEx	US Mail	
Native American Heritage Commission 1550 Harbor Blvd, Suite 100 West Sacramento, CA 95691 NAHC@nahc.ca.gov			X		5/7/20			5/6/20	
Central Valley Regional Water Quality Control Board 1685 E Street Fresno, CA 93706 CentralValleyFresno@waterboards.ca.gov			X		5/7/20			5/6/20	5/7/20, email receipt of NOA submittal.
San Joaquin Valley Air Pollution Control District Permit Services – CEQA Division 1990 E. Gettysburg Ave. Fresno, CA 93726 CEQA@valleyair.org			X		5/7/20			5/6/20	7/14/20, comment letter received from Arnaud Marjollet, Director of Permit Services.
LOCAL AGENCIES									
Tulare County Agricultural Commissioner Attn: Tom Tucker, Ag Commissioner 4437 S. Laspina Street Tulare CA 93274 TTucker@co.tulare.ca.us			X		5/7/20			5/6/20	
Tulare County Association of Governments Attn: Ted Smalley, Executive Director 210 N. Church Street, Suite B Visalia, CA 93291 TSmalley@tularecog.org			X		5/7/20	5/6/20			
Tulare County Farm Bureau Tricia Stever Blattler, Executive Director P.O. Box 748 Visalia, CA 93291 pstever@tulcofb.org John C. Guthrie jcguthrie@ocsnet.net			X		5/7/20 5/8/20			5/6/20	see above for California Farm Bureau Federation
Tulare County Fire Warden 835 S. Akers Street Visalia, CA 93277			X			5/6/20			
Tulare County HHS Environmental Health Department Attn: Allison Shuklian 5957 S. Mooney Blvd Visalia, CA 93277 AShuklia@tularehhsa.org			X		5/7/20	5/6/20			

NOTICE OF AVAILABILITY – REXFORD SOLAR FARM (PSP 19-073) – SCH# 2020020326

	DOCUMENTS SENT				DELIVERY METHOD				COMMENTS RECEIVED
AGENCY / ENTITY	Cover Letter	NOC	NOA	DEIR	E-mail	Hand Delivered / Interoffice	FedEx	US Mail	
Tulare County Local Agency Formation Commission 210 N. Church Street, Suite B Visalia, CA 93291			X			5/6/20			
Tulare County Office of Emergency Services Attn: Sabrina Bustamante 5957 S. Mooney Blvd Visalia, CA 93277 SLBustamante@tularehhsa.org MFish@tularehhsa.org			X		5/7/20	5/6/20			
Tulare County Resource Management Agency Fire Division Gilbert Portillo: GPortillo@co.tulare.ca.us			X		5/7/20	5/6/20			
Tulare County Resource Management Agency Flood Control Division Reed Schenke: RSchenke@co.tulare.ca.us Ross Miller: rmiller@co.tulare.ca.us			X		5/7/20	5/6/20			
Tulare County Resource Management Agency Public Works Division Hernan Beltran: HBeltran@co.tulare.ca.us Johnny Wong: JWong@co.tulare.ca.us			X		5/7/20	5/6/20			
Tulare County Resources Conservation District 3530 W. Orchard Ct Visalia, CA 93277			X					5/6/20	
Tulare County Sheriff Headquarters 2404 W. Burrel Avenue Visalia, CA 93291			X			5/6/20			
Tulare County UC Cooperative Extension 4437 S. Laspina Street Tulare, CA 93274			X					5/6/20	
TRIBES									
Kern Valley Indian Community Robert Robinson, Co-Chairperson P.O. Box 1010 Lake Isabella, CA 93240 bbutterbredt@gmail.com			X		5/7/20			5/6/20	
Kern Valley Indian Community Julie Turner, Secretary P. Box 1010 Lake Isabella, CA 93240 meindiagirl@sbcglobal.net			X		5/7/20			5/6/20	

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	DOCUMENTS SENT				DELIVERY METHOD				COMMENTS RECEIVED
AGENCY / ENTITY	Cover Letter	NOC	NOA	DEIR	E-mail	Hand Delivered / Interoffice	FedEx	US Mail	
Kern Valley Indian Community Brandy Kendricks 30741 Foxridge Court Tehachapi, CA 93561 krazykendricks@hotmail.com			X		5/7/20			5/6/20	
Santa Rosa Rancheria Tachi Yokut Tribe Leo Sisco, Chairperson P. O. Box 8 Lemoore, CA 93245 LSisco@tachi-yokut-nsn.gov			X		5/7/20			5/6/20	
Santa Rosa Rancheria Tachi Yokut Tribe Robert Jeff, Vice-Chair P. O. Box 8 Lemoore, CA 93245 RGJeff@tachi-yokut-nsn.gov			X		5/7/20			5/6/20	
Santa Rosa Rancheria Tachi Yokut Tribe Bianca Arias, Administrative Assistant P. O. Box 8 Lemoore, CA 93245 BArias@tachi-yokut-nsn.gov			X		5/7/20			5/6/20	
Santa Rosa Rancheria Cultural Department Shana Powers, Director P. O. Box 8 Lemoore, CA 93245 SPowers@tachi-yokut-nsn.gov			X		5/7/20			5/6/20	
Santa Rosa Rancheria Tachi Yokut Tribe Greg Cuara P. O. Box 8 Lemoore, CA 93245 GCuara@tachi-yokut-nsn.gov			X		5/7/20			5/6/20	
Tubatulabals of Kern Valley Robert L. Gomez, Jr., Chairperson P.O. Box 226 Lake Isabella, CA 93240 rgomez@tubatulabal.org			X		5/7/20			5/6/20	
Tule River Indian Tribe Neil Peyron, Chairperson P. O. Box 589 Porterville, CA 93258 neil.peyron@tulerivertribe-nsn.gov			X		5/7/20			5/6/20	

NOTICE OF AVAILABILITY – REXFORD SOLAR FARM (PSP 19-073) – SCH# 2020020326

	DOCUMENTS SENT				DELIVERY METHOD				COMMENTS RECEIVED
AGENCY / ENTITY	Cover Letter	NOC	NOA	DEIR	E-mail	Hand Delivered / Interoffice	FedEx	US Mail	
Tule River Indian Tribe Environmental Department Kerri Vera, Director P. O. Box 589 Porterville, CA 93258 tuleriverenv@yahoo.com			X		5/7/20			5/6/20	
Tule River Indian Tribe Department of Environmental Protection Felix Christman P. O. Box 589 Porterville, CA 93258 Tuleriverarchmon1@gmail.com			X		5/7/20			5/6/20	
Wuksache Indian Tribe/Eshom Valley Band Kenneth Woodrow, Chairperson 1179 Rock Haven Ct. Salinas, CA 93906 Kwood8934@aol.com			X		5/7/20			5/6/20	
OTHER INTERESTED PARTIES									
Southern California Edison Attn: Calvin Rossi, Region Manager Local Public Affairs 2425 S. Blackstone St. Tulare, CA 93274 calvin.rossi@sce.com			X		5/7/20			5/6/20	
Southern California Gas Company 404 N. Tipton Street Visalia, CA 93292 Attn: James Chuang, Sr. Environmental Specialist envreview@semprautilities.com			X		5/7/20			5/6/20	
Venai Shenoy 20SD 8ME LLC 5455 Wilshire Blvd Ste 2010 Los Angeles, CA 90036 vshenoy@8minute.com			X		5/7/20			5/6/20	
Alexander Sundquist asundquist@8minute.com					5/8/20				

NOTICE OF AVAILABILITY – REXFORD SOLAR FARM (PSP 19-073) – SCH# 2020020326

	DOCUMENTS SENT				DELIVERY METHOD				COMMENTS RECEIVED
AGENCY / ENTITY	Cover Letter	NOC	NOA	DEIR	E-mail	Hand Delivered / Interoffice	FedEx	US Mail	
Sharyn Del Rosario HDR Inc. 3230 El Camino Real, Suite 200 Irvine, CA 92602 Sharyn.DelRosario@hdrinc.com			X		5/7/20			5/6/20	
Tim Gnibus HDR Inc. 3230 El Camino Real, Suite 200 Irvine, CA 92602 Tim.Gnibus@hdrinc.com			X		5/7/20			5/6/20	
Scott Sterling / Eric Schmunk United Rentals 34929 Petrol Road Bakersfield, CA ssterling@ur.com eschmunk@ur.com			X		5/8/20				
Darrell Sisco / Sergio Castillo United Rentals 925 N. Ben Maddox Way Visalia, CA dsisco@ur.com scastill@ur.com			X		5/8/20				
Sheila Sannadan Adams Broadwell Joseph & Cardozo 601 Gateway Blvd, Ste 1000 South San Francisco, CA 94080-7037 ssannadan@adamsbroadwell.com			X		5/7/20			5/6/20	
Michael Lozeau Lozeau Drury LLP 1939 Harrison St, Ste 150 Oakland, CA 94612 michael@lozeaudrury.com			X		5/7/20			5/6/20	
Hannah Hughes Lozeau Drury LLP 1939 Harrison St, Ste 150 Oakland, CA 94612 hannah@lozeaudrury.com			X		5/7/20			5/6/20	

NOTICE OF AVAILABILITY – REXFORD SOLAR FARM (PSP 19-073) – SCH# 2020020326

	DOCUMENTS SENT				DELIVERY METHOD				COMMENTS RECEIVED
AGENCY / ENTITY	Cover Letter	NOC	NOA	DEIR	E-mail	Hand Delivered / Interoffice	FedEx	US Mail	
Komalpreet Toor Lozeau Drury LLP 1939 Harrison St, Ste 150 Oakland, CA 94612 komal@lozeaudrury.com			X		5/7/20			5/6/20	
Krista Christensen									5/14/20, Ms. Christensen contacted J. Willis by phone inquiring about non-CEQA related information; however, in the discussion Ms. Christensen did request to be included in the notification of when the FEIR would be published and go before the Planning Commission; Krista.Christensen@kiewit.com
Henry "Dave" Nenna 6006 Road 248 Ducor, CA 93218									6/15/20, comment letter received from Mr. Nenna, hdnenna@trli.us

Attachment 2.

Comments Received from the Department of the Army U.S. Army Corps of Engineers, Sacramento District, May 14, 2020 and County Response to Comments

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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

MICHAEL WASHAM, ASSOCIATE DIRECTOR

August 14, 2020

SENT VIA EMAIL

Mr. William Ness, Senior Project Manager
Department of the Army
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, CA 95814-2922
Re: SPK-2020-00391

Subject: Response to Comments – Rexford Solar Farm (SCH# 2020020326)

Dear Mr. Ness:

Thank you for providing the Department of the Army, U.S. Army Corps of Engineers (Corps of Engineers or USACE) response letter (PK-2020-0039, dated May 14, 2020) regarding the Draft Environmental Impact Report (DEIR) for the Rexford Solar Project, State Clearinghouse #2020020326.

The County of Tulare (County) acknowledges and recognizes USACE's authority and expertise regarding Section 404 of the Clean Water Act relative to the proposed project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final EIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the project environmental documents.

Comment Subject 1: We are responding to your May 12, 2020, Notice of Availability of Draft Environmental Impact Report, Rexford Solar Farm (SCH#2020020326). The approximately 3,614-acre project site is located near the community of Ducor in Tulare County, California.

Response: *Comment noted; the commenter is correct in their understanding of the project's location.*

Comment Subject 2: The Corps of Engineers' jurisdiction within the study area is under the authority of Section 404 of the Clean Water Act for the discharge of dredged or fill material into waters of the United States. Waters of the United States include, but are not limited to, rivers, perennial or intermittent streams, lakes, ponds, wetlands, vernal pools, marshes, wet

meadows and seeps. Project features that result in the discharge of dredged or fill material into waters of the United States will require Department of the Army authorization prior to starting work.

Response: *This comment summarizes the Corp's of Engineers jurisdiction under the authority of Section 404 of the Clean Water Act. The County acknowledges that any project activities that result in the discharge of dredged or fill material into waters of the United States will require Department of the Army authorization prior to starting work.*

As described in Draft EIR Section 5.4 Biological Resources, the White River crosses a portion the Project Area at its center, there are two ephemeral drainages within the Project Area, isolated wetlands, and an irrigation ditch. However, all of these features have either been determined to be non-navigable waters or would be avoided; therefore, they are not subject to USACE jurisdiction and no Section 404 Clean Water Act permit would be required for project activities (see Draft EIR page 3.4-9).

Comment Subject 3: To ascertain the extent of waters on the project site, the applicant should prepare an aquatic resources delineation, in accordance with the "Minimum Standards for Acceptance of Preliminary Aquatic Resources Delineation Reports" and "Final Map and Drawing Standards for the South Pacific Division Regulatory Program" under "Jurisdiction" on our website at the address below, and submit it to this office for verification. A list of consultants that prepare aquatic resources delineations and permit application documents is also available on our website at the same location.

Response: *Please refer to response to comment #2.*

Comment Subject 4: The range of alternatives considered for this project should include alternatives that avoid impacts to wetlands or other waters of the United States. Every effort should be made to avoid project features which require the discharge of dredged or fill material into waters of the United States. In the event it can be clearly demonstrated there are no practicable alternatives to filling waters of the United States, mitigation plans should be developed to compensate for any unavoidable loss of aquatic resource functions or services resulting from project implementation.

Response: *This comment is acknowledged; however, as indicated in response to comment #2, no waters of the U.S. are located within the project site boundaries, as such, analysis of alternatives that would avoid or minimize impacts to waters of the U.S. is not warranted.*

Comment Subject 5: Please refer to identification number SPK-2020-00391 in any correspondence concerning this project. If you have any questions, please contact me at 1325 J Street, Room 1350, Sacramento, California 95814-2922, by email at William.W.Ness@usace.army.mil, or telephone at (916) 557-5268. For more information regarding our program, please visit our website at:
www.spk.usace.army.mil/Missions/Regulatory.aspx.

Response: *Comment noted; we appreciate receiving Mr. Ness' contact information.*

The project will be heard before the Tulare County Planning Commission on August 26, 2020 for consideration of certifying the Final EIR and approving the project. The Final EIR will be available beginning August 14, 2020 at the following website:

<https://tularecounty.ca.gov/rma/index.cfm/planning-building/environmental-planning/environmental-impact-reports/rexford-solar-project-19-073/>

In closing, we sincerely appreciate USACE's comments which will be useful toward ensuring that the proposed Project complies with USACE's requirements/standards/permits/etc., and with the California Environmental Quality Act.

If you have any questions regarding the above, please contact me at (559) 624-7121.

Very Best Regards,



Hector Guerra, Chief
Environmental Planning Division

Attachment: USACE comment letter dated May 14, 2020

Cc: File

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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

May 14, 2020

Regulatory Division (SPK-2020-00391)

Tulare County Resource Management Agency
Attn: Mr. Hector Guerra
5961 South Mooney Boulevard
Visalia, California 93277-9394
hguerra@co.tulare.ca.us

Dear Mr. Guerra:

We are responding to your May 12, 2020, Notice of Availability of Draft Environmental Impact Report, Rexford Solar Farm (SCH#2020020326). The approximately 3,614-acre project site is located near the community of Ducor in Tulare County, California.

The Corps of Engineers' jurisdiction within the study area is under the authority of Section 404 of the Clean Water Act for the discharge of dredged or fill material into waters of the United States. Waters of the United States include, but are not limited to, rivers, perennial or intermittent streams, lakes, ponds, wetlands, vernal pools, marshes, wet meadows and seeps. Project features that result in the discharge of dredged or fill material into waters of the United States will require Department of the Army authorization prior to starting work.

To ascertain the extent of waters on the project site, the applicant should prepare an aquatic resources delineation, in accordance with the "Minimum Standards for Acceptance of Preliminary Aquatic Resources Delineation Reports" and "Final Map and Drawing Standards for the South Pacific Division Regulatory Program" under "Jurisdiction" on our website at the address below, and submit it to this office for verification. A list of consultants that prepare aquatic resources delineations and permit application documents is also available on our website at the same location.

The range of alternatives considered for this project should include alternatives that avoid impacts to wetlands or other waters of the United States. Every effort should be made to avoid project features which require the discharge of dredged or fill material into waters of the United States. In the event it can be clearly demonstrated there are no practicable alternatives to filling waters of the United States, mitigation plans should be developed to compensate for any unavoidable loss of aquatic resource functions or services resulting from project implementation.

Please refer to identification number SPK-2020-00391 in any correspondence concerning this project. If you have any questions, please contact me at 1325 J Street, Room 1350, Sacramento, California 95814-2922, by email at William.W.Ness@usace.army.mil, or telephone at (916) 557-5268. For more information regarding our program, please visit our website at www.spk.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Ness', with a stylized, wavy line extending from the end.

William Ness
Senior Project Manager
California South Section

Attachment 3.

Comments Received from the Department of California Highway Patrol, May 25, 2020 and County Response to Comments

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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

MICHAEL WASHAM, ASSOCIATE DIRECTOR

August 14, 2020

SENT VIA EMAIL

S.P. Goddard, Lieutenant
Department of California Highway Patrol
861 West Morton Avenue
Porterville, CA 93257
Re: File No. 481.15220.14758

Subject: Response to Comments – Rexford Solar Farm (SCH# 2020020326)

Dear Lt. Goddard:

Thank you for providing the Porterville Area Office of the California Highway Patrol (Porterville Area) response letter (File No. 481.15220.14758, dated May 25, 2020) regarding the Draft Environmental Impact Report (DEIR) for the Rexford Solar Project, State Clearinghouse #2020020326.

The County of Tulare (County) acknowledges and recognizes Porterville Area's authority and expertise relative to the proposed project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final EIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the project environmental documents.

Comment Subject 1: The Porterville Area Office of the California Highway Patrol received and thoroughly reviewed the "Notice of Completion" of the Environmental document for the proposed Rexford Solar Farm, State Clearing House #2020020326. The proposed transmission and/or collector lines would be located along portions of Road 232, Avenue 56, Avenue 64, Road 240, Avenue 32, Richgrove Drive, and State Route 65; or could possibly utilize additional nearby routings, within Tulare County up to a total of 13 miles in length.

Response: *This is an introductory comment and does not address the adequacy of the Draft EIR. As such, no further response is necessary.*

Comment Subject 2: The Porterville Area is supportive of the planned project; however, with the increased volumes of traffic relating to the construction, the Porterville Area has concerns involving increased response times, enforcement, and calls for service. The proposed project

is due to begin during the fourth quarter of 2021 with heavy construction expected to occur between 6:00 AM and 5:00 PM, Monday through Friday. It is anticipated the project will last for a period of 24 months with an estimated 1,000 workers driving in the area per day during peak construction periods. This added influx of traffic could have a significant impact on the Area's operations due to the increased traffic congestion.

Response: *While the project will result in an increase in traffic during construction, as described on Draft EIR page 3.17-7, roadways in the vicinity of the project site will continue to operate at an acceptable level of service both during construction (where the majority of trips would be generated on a short-term basis, and operation). Specifically, as indicated on Draft EIR page 3.17-7, the traffic analysis assumed a worst-case scenario for the Existing plus Construction Conditions scenario by assigning 100 percent of the construction trips to each study area roadway segment individually. With the addition of construction traffic, all study area roadway segments will operate at acceptable LOS D or better (see Draft EIR Table 3.14-4). As all study area roadway segments will not exceed the LOS D threshold, traffic impacts during construction were determined to be less than significant.*

The Draft EIR specifically evaluates potential impacts regarding emergency response. As stated on Draft EIR page 3.17-11, "... increased Project related operational traffic will not cause a significant increase in congestion and will not significantly affect the existing LOS on area roads. Furthermore, the Project will not require closures of public roads, which could inhibit access by emergency vehicles. During construction related activities of the Project, heavy construction related vehicles (e.g., heavy duty tractor trailers) could interfere with emergency response to the site or emergency evacuation procedures in the event of an emergency (e.g., by slowing vehicles traveling behind the truck, which are typically slower to accelerate and require longer distances to stop). However, given that there are very few businesses and residences, and no emergency response stations in the immediate vicinity of the Project site, the intermittent, short term, and temporary occurrence of heavy construction related traffic will not result in inadequate emergency access. Therefore, the Project will allow for adequate emergency access during construction and operation related activities and a Less than Significant Impact will occur."

Comment Subject 3: If you have any questions regarding these concerns, please contact Lieutenant S.P. Goddard at (559) 784-7444

Response: *Comment noted; we appreciate receiving Lt. Goddard's contact information.*

The project will be heard before the Tulare County Planning Commission on August 26, 2020 for consideration of certifying the Final EIR and approving the project. The Final EIR will be available beginning August 14, 2020 at the following website:

<https://tularecounty.ca.gov/rma/index.cfm/planning-building/environmental-planning/environmental-impact-reports/rexford-solar-project-psp-19-073/>

In closing, we sincerely appreciate California Highway Patrol's comments which will be useful toward ensuring that the proposed Project complies with the Porterville Area's requirements/standards/etc., and with the California Environmental Quality Act.

If you have any questions regarding the above, please contact me at (559) 624-7121.

Very Best Regards,



Hector Guerra, Chief
Environmental Planning Division

Attachment: Porterville Area Office of the California Highway Patrol comment letter dated May 25, 2020

Cc: File

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DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

861 West Morton Avenue
Porterville, CA 93257
(559) 784-7444
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



May 25, 2020

File No.: 481.15220.14758

Tulare County Resource Management Agency
Attention: Mr. Hector Guerra, Chief Environmental Planner
5961 South Mooney Boulevard
Visalia, CA 93277

RE: SCH# 2020020326

The Porterville Area Office of the California Highway Patrol received and thoroughly reviewed the "Notice of Completion" of the Environmental document for the proposed Rexford Solar Farm, State Clearing House #2020020326. The proposed transmission and/or collector lines would be located along portions of Road 232, Avenue 56, Avenue 64, Road 240, Avenue 32, Richgrove Drive, and State Route 65; or could possibly utilize additional nearby routings, within Tulare County up to a total of 13 miles in length.

The Porterville Area is supportive of the planned project; however, with the increased volumes of traffic relating to the construction, the Porterville Area has concerns involving increased response times, enforcement, and calls for service. The proposed project is due to begin during the fourth quarter of 2021 with heavy construction expected to occur between 6:00 AM and 5:00 PM, Monday through Friday. It is anticipated the project will last for a period of 24 months with an estimated 1,000 workers driving in the area per day during peak construction periods. This added influx of traffic could have a significant impact on the Area's operations due to the increased traffic congestion.

If you have any questions regarding these concerns, please contact Lieutenant S. P. Goddard at (559) 784-7444.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. P. Goddard".

S. P. GODDARD, Lieutenant
Commander

cc: Central Division
Special Projects Section
State Clearing House



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Attachment 4.
Comments Received from the California
Department of Conservation, Geologic Energy
Management Division, May 26, 2020 and County
Response to Comments

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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

MICHAEL WASHAM, ASSOCIATE DIRECTOR

August 14, 2020

SENT VIA EMAIL

Chris Jones, Acting District Deputy
California Department of Conservation
Geologic Energy Management Division
801 K Street, MS 18-05
Sacramento, CA 95814

Subject: Response to Comments – Rexford Solar Farm (SCH# 2020020326)

Dear Acting District Director Jones:

Thank you for providing the California Department of Conservation Geologic Energy Management Division (CalGEM) letter response (dated May 26, 2020) regarding the Draft Environmental Impact Report (DEIR) for the Rexford Solar Farm Project, State Clearinghouse #20200203267.

The County of Tulare (County) acknowledges and recognizes CalGEM's authority and expertise regarding oil, natural gas, and geothermal industries issues relative to the proposed project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final EIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the project environmental documents.

Comment Subject 1: Public Resources Code (PRC) § 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells

Response: *The County recognizes that any development of those portions of the project with the presence of the two abandoned wells would be conducted in accordance with the well reabandonment responsibilities pursuant to Public Resources Code (PRC) § 3208.1, which would ensure that no potential hazards risk associated with the wells would occur.*

Comment Subject 2: The Division of Oil, Gas, and Geothermal Resources (Division) has received and reviewed the above referenced project dated 5/22/2020. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the Division provides the following well evaluation.

The project is located in Tulare County, within the boundaries of the following fields:

Any Field

The parcels are not located within any oil field administrative boundaries, however, in addition to the plugged & abandoned well(s), there might be pipelines associated to oil and gas production.

Our records indicate there are 2 known oil or gas wells located within the project boundary as identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 2
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

Response: *As indicated on Draft EIR page 3.9-1, a Phase I Environmental Site Assessment (ESA) has been prepared for the project (see Draft EIR Appendix D). Although not considered Recognized Environmental Concerns (REC), two plugged/abandoned oil gas wells identified on the Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR) website are located on APN 321-140-013 (see Figure 2 in Appendix "G" of the Draft EIR). This information (presence of two abandoned wells on-site) is consistent with the information provided in Comment #2 below. According to the CalGEM database, documentation of a prospect well installation and an oil/gas well destruction/abandonment were listed for the two on-site wells. There are no records of any leaks or spills in regard to the on-site wells. Well records are provided as Appendix D of the Phase I report.*

Any project activities involving potential disturbance to the abandoned wells, would be the responsibility of the applicant and conducted in compliance with PRC § 3208.1.

Comment Subject 3: The Division categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways,

and decking. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.

Response: *There are no active wells located within the project site. As such, the proposed project would not impede access to oil, gas, or geothermal wells.*

Comment Subject 4: There are no guarantees a well abandoned in compliance with current Division requirements as prescribed by law will not start leaking in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The Division acknowledges wells plugged and abandoned to the most current Division requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantees that such abandonments will not leak.

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

Failure to plug and reabandon the well may result in enforcement action, including an order to perform reabandonment well work, pursuant to PRC § 3208.1, and 3224.

Response: *As indicated on Draft EIR page 3.9-13, the proposed Project will not involve the demolition of existing on site structures or the alteration or removal of the on site irrigation wells or oil gas wells. Further, as explained in response to comment #2, according to the CalGEM database, documentation of a prospect well installation and an oil/gas well destruction/abandonment were listed for the two on-site wells. There are no records of any leaks or spills in regard to the on-site wells.*

The County recognizes that any development of those portions of the project with the presence of the two abandoned wells would be conducted in accordance with the well reabandonment responsibilities pursuant to Public Resources Code (PRC) § 3208.1.

Comment Subject 5: PRC § 3208.1 give the Division the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment, or if the well is not accessible or visible. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for reabandonment as:

1. The property owner - If the well was plugged and abandoned in conformance with Division requirements at the time of abandonment, and in its current condition does not pose an

immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem, then the owner of the property on which the well is located shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.

2. The person or entity causing construction over or near the well - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned, or to follow the advice of the supervisor or district deputy not to undertake the construction, then the person or entity causing the construction over or near the well shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.

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

Response: *Comment noted. Please see responses to comments #2 through #5.*

Comment Subject 6: No well work may be performed on any oil, gas, or geothermal well without written approval from the Division. Well work requiring approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other re-abandonment work. The Division also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. CCR §1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this regulation, a permit from the Division is required before work can start.

Response: *Comment noted. The proposed Project is not anticipated to involve the demolition of existing on site structures or the alteration or removal of the on site irrigation wells or oil gas wells; however, the County acknowledges that any well work would require a permit from the Division.*

Comment Subject 7: The Division makes the following additional recommendations to the local permitting agency, property owner, and developer: 1. To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, the

Division recommends that information regarding the above identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.

Response: *Comment noted, the County has notified the Project applicant of the wells located on-site and has provided the applicant this correspondence to inform potential permit requirements and other information identified in the letter. As a condition of approval of the project, the County has required the applicant to include the presence of the wells as part of the title information for the subject parcels where the wells are located.*

Comment Subject 8: The Division recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development. As indicated in PRC § 3106, the Division has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to the Division's authority to order work on wells pursuant to PRC §§ 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC §§ 3236, 3236.5, and 3359 for violations within the Division's jurisdictional authority. The Division does not regulate grading, excavations, or other land use issues.

Response: *Comment noted. As a condition of approval of the Project, the County has required that soils containing significant amounts of hydrocarbons (above recommended threshold levels) be handled and/or disposed of (as required) in accordance with local, state, and federal laws.*

Comment Subject 9: If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Inland district office, and file for Division review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

Response: *Comment noted.*

Comment Subject 10: Should you have any questions, please contact me at (661) 326-6016 or via email at Victor.Medrano@conservation.ca.gov.

Response: *Comment noted; we appreciate receiving Mr. Medrano's contact information.*

Comment Subject 11: The wells listed below are not abandoned to current Division requirements as prescribed by law, and based upon information provided, are projected to be built over or have future access impeded. **The Division expects these wells to be**

reabandoned in compliance with current California law, prior to development activities (emphasis added by CalGEM).

API	WELL DESIGNATION	OPERATOR	WELL EVALUATIONS
04107201 98	Stockdale-Carlisle 1	Western Continental Operating Company	Surface plug is not adequate (CCR § 1723.5) Note: No well leak test reported.
04107004 05	1	J. O. Lamb	Surface plug is not adequate (CCR § 1723.5) Note: No well leak test reported.

Response: *The proposed Project will not involve the demolition of existing on site structures or the alteration or removal of the on site irrigation wells or oil gas wells. Please also refer to responses to comments #1 through #10.*

The project will be heard before the Tulare County Planning Commission on August 26, 2020 for consideration of certifying the Final EIR and approving the project. The Final EIR will be available beginning August 14, 2020 at the following website:

<https://tularecounty.ca.gov/rma/index.cfm/planning-building/environmental-planning/environmental-impact-reports/rexford-solar-project-19-073/>

In closing, we sincerely appreciate CalGEM's comments which will be useful toward ensuring that the proposed Project complies with CalGEM's requirements/standards/permits/etc., and with the California Environmental Quality Act.

If you have any questions regarding the above, please contact me at (559) 624-7121.

Best Regards,



Hector Guerra, Chief
Environmental Planning Division

Attachment: California Department of Conservation Geologic Energy Management Division comment letter dated May 26, 2020

Cc: File



05/26/2020

Hector Guerra
5961 South Mooney Blvd., Visalia, CA 93277, USA

Construction Site Well Review (CSWR) ID: 1011914

Assessor Parcel Number(s): 321040007, 321040008, 321040011, 321040025, 321070014, 321070026, 321110016, 321120002, 321120004, 321130005, 321140007, 321140008, 321140010, 321140012, 321140013, 321140014, 321140015, 321190001, 321190002, 321200006, 321210004, 323040006, 323040007, 323040008, 339050004, 339050006, 339050007, 339050008, 339050013, 339070014, 339070015, 339070016, 339070026, 339080005, 339080013, 339080015, 339080016, 339110001, 339110008, 339110009

Property Owner(s): Unknown Unknown

Project Location Address: along Road 232, Ave 56, Ave 64, Road 224, Road 2400, Ave 32, Richgrove Dr, State Rt 65, Ducor, California, 93218

Project Title: Rexford Solar Farm Project SCH 2020020326

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

The Division of Oil, Gas, and Geothermal Resources (Division) has received and reviewed the above referenced project dated 5/22/2020. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the Division provides the following well evaluation.

The project is located in Tulare County, within the boundaries of the following fields:

Any Field

The parcels are not located within any oil field administrative boundaries, however, in addition to the plugged & abandoned well(s), there might be pipelines associated to oil and gas production.

Our records indicate there are 2 known oil or gas wells located within the project boundary as identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 2
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0



- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

The Division categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.

There are no guarantees a well abandoned in compliance with current Division requirements as prescribed by law will not start leaking in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The Division acknowledges wells plugged and abandoned to the most current Division requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantees that such abandonments will not leak.

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

Failure to plug and reabandon the well may result in enforcement action, including an order to perform reabandonment well work, pursuant to PRC § 3208.1, and 3224.

PRC § 3208.1 give the Division the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment, or if the well is not accessible or visible. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for reabandonment as:

1. The property owner - If the well was plugged and abandoned in conformance with Division requirements at the time of abandonment, and in its current condition does not pose an immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem, then the owner of the property on which the well is located shall obtain all



rights necessary to reabandon the well and be responsible for the reabandonment.

2. The person or entity causing construction over or near the well - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned, or to follow the advice of the supervisor or district deputy not to undertake the construction, then the person or entity causing the construction over or near the well shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
3. The party or parties responsible for disturbing the integrity of the abandonment - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the reabandonment.

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

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

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

As indicated in PRC § 3106, the Division has statutory authority over the drilling, operation,



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

If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Inland district office, and file for Division review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

Should you have any questions, please contact me at (661) 326-6016 or via email at Victor.Medrano@conservation.ca.gov

Sincerely,

Chris Jones
Acting District Deputy



Wells Not Abandoned to Current Division Requirements as Prescribed by Law & Projected to be Built Over or Have Future Access Impeded

The wells listed below are not abandoned to current Division requirements as prescribed by law, and based upon information provided, are projected to be built over or have future access impeded. **The Division expects these wells to be reabandoned in compliance with current California law, prior to development activities.**

API	Well Designation	Operator	Well Evaluations
0410720198	Stockdale-Carlisle 1	Western Continental Operating Company	Surface plug is not adequate (CCR § 1723.5) Note: No well leak test reported.
0410700405	1	J. O. Lamb	Surface plug is not adequate (CCR § 1723.5) Note: No well leak test reported.

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Attachment 5. Comments Received from the Department of Transportation, District 6 Office, June 10, 2020 and County Response to Comments

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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

MICHAEL WASHAM, ASSOCIATE DIRECTOR

August 14, 2020

SENT VIA EMAIL

David Deel, Associate Transportation Planner
Transportation Planning – North
Department of Transportation – District 6
1352 West Olive Avenue
Fresno, CA 93778-2616

Subject: Response to Comments – Rexford Solar Farm (SCH# 2020020326)

Dear Mr. Deel:

Thank you for providing the California Department of Transportation (Caltrans) letter response (dated June 10, 2020) regarding the Draft Environmental Impact Report (DEIR) for the Rexford Solar Farm Project, State Clearinghouse #20200203267.

The County of Tulare (County) acknowledges and recognizes Caltrans' authority and expertise regarding transportation issues relative to the proposed project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final EIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the project environmental documents.

Intro Comment: Introductory comments, summary of Caltrans' understanding of the Project

Response: *This introductory comment summarizes the general project characteristics and states Caltrans' mission to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. This comment does not address the adequacy of the Draft EIR; therefore, no further response is necessary.*

Comment Subject 1: In the DEIR Transportation section under heading 3.17.5 Regulatory Setting, the DEIR states that the June 2002 SR 65 Transportation Concept Report (TCR) was used for Level of Service, Ultimate Transportation Corridor (UTC) and other pertinent information.

Response: *Comment noted. Please see response to comment #2.*

Comment Subject 2: Please note that in June 2014 the SR 65 TCR was updated.

Response: *The County acknowledges that the SR 65 TCR was updated in June 2014. The Draft EIR has been revised to reflect the SR 65 TCR as follows:
Draft EIR page 3.17-6:*

Caltrans: Transportation Concept Reports

Caltrans has prepared a number of concept reports for State Routes, Interstate Routes, and US Routes for each District. Tulare County is located in Caltrans District 6. The concept report that applies to the proposed Project is the SR 65 Transportation Concept Report (TCR) prepared in June 2002 2014. The Project site lies within Segment 5 consisting of 7 miles from the Kern County Line north to Avenue 56 at Ducor. According to the SR 65 TCR, a Caltrans project involving upgrading of this roadway was completed in 2010.

As of the year 2012, Segment 5 of Route 65 is operating at LOS C. primarily at LOS D and LOS E from Bakersfield to Route 198 in Tulare County. Segment 5 had an LOS of D in 2002. According to the SR 65 TCR, the acceptable Concept LOS is C for SR 65. Segment 5 is expected to operate at LOS B with proposed improvements, which will be widened to a 4 lane Expressway by the year 2025. There will be no residual capacity deficiencies. Additional right of way will be required on all segments to meet the Ultimate Transportation Corridor (UTC) of a 6 lane Freeway. LOS D in 2020 and LOS B in 2035. The 2035 Concept LOS (target LOS desired) is LOS C. The 20-25 year facility concept for Segment 5 will be to widen the facility to a four lane expressway.

The County would like to emphasize that these changes do not materially affect the adequacy or conclusions of the Draft EIR.

Comment Subject 3: According to the SR 65 Transportation Concept Report (TCR), segments 5 & 6 of SR 65, in the vicinity of this project, are planned to be widened as a 4-lane expressway within a total of 240 feet of right-of-way (120 feet from the centerline).

Response: *Comment noted. This is an introductory comment and does not address the adequacy of the Draft EIR. As such, no further response is necessary.*

Comment Subject 4: Caltrans is developing plans to widen SR 65 to a 4-lane divided expressway in a 4-phased construction project from the Tulare/Kern county line north to SR 65/SR 190 interchange.

Response: *Comment noted. This is an introductory comment and does not address the adequacy of the Draft EIR. As such, no further response is necessary.*

Comment Subject 5: Caltrans and TCAG has completed widening from the SR 65/SR 190 interchange, south to Avenue 124.

Response: *Comment noted. This comment does not address the adequacy of the Draft EIR. As such, no further response is necessary.*

Comment Subject 6: Phases 3 and 4 of the widening project (in the vicinity of the Solar Project sites) will widen SR 65 with 2 new lanes on the east side of the current highway alignment. This will result in the need for additional right-of-way ranging from approximately 50 feet to 140 feet.

Response: *Comment noted. This comment does not address the adequacy of the Draft EIR. As such, no further response is necessary.*

Comment Subject 7: Caltrans recommends that a coordination meeting be held with the applicant, Tulare County (lead agency), and Caltrans to discuss the specifics of the widening project and right-of-way impacts to the Project.

Response: *The County and project applicant appreciate this comment and will meet with Caltrans regarding potential right-of-way impacts to the project as the project further advances through the approvals and final engineering design phases.*

Comment Subject 8: Caltrans anticipates that most of the traffic generated by the Project would be during the construction phase. The Project estimates that up to 1,000 workers per day (during peak construction periods) will be required during the construction phase of the Project.

Response: *This comment correctly states that the majority of traffic generated by the project would occur during the construction phase. As indicated in Draft EIR Section 2 Project Description page 2-15, "It is estimated that up to 1,000 workers per day (during peak construction periods) will be required during the construction of the Project." Based on this construction worker estimate construction trip generation is estimated as stated on Draft EIR page 3.17-7:*

Construction Trip Generation. The proposed Project is expected to generate a total passenger car equivalent (PCE) volume of approximately 1,226 average daily trips (ADT), which includes 1,075 passenger car trips and 70 heavy vehicle trips per day during construction related activities. As noted earlier, the construction time frame is estimated to last 12 to 24 months. As such, trips generated during this phase will be temporary, short term, and intermittent and will decrease to 50 ADT associated with O&M related activities upon completion of construction related activities.

Comparatively, only 50 trips per day are estimated during the operational phase of the Project.

Comment Subject 9: Caltrans requests that construction Traffic Management Plan and Traffic Control Plan be prepared and provided to our office for review prior to the start of construction activities.

Response: We concur. As a condition of project approval, all construction in the public road right-of-way will require the applicant to apply for and obtain an Encroachment Permit through the Road Department. Typically, a construction Traffic Management Plan (which includes provisions for traffic control) will be prepared for the proposed project prior to the commencement of construction activities. As such, this plan will be provided to Caltrans for review for any construction activities that would involve Caltrans facilities.

Comment Subject 10: Once constructed, the Project will operate seven days a week, 24 hours a day. Maintenance of the solar panels may occur seven days a week, 24 hours a day to ensure optimum panel output and require an operational staff of up to 20 full-time employees.

Response: Comment noted. This comment restates the operational characteristics of the proposed project as described and analyzed in the Draft EIR. This comment does not address the adequacy of the Draft EIR; therefore, no further response is necessary.

Comment Subject 11: Caltrans recommends that truck and equipment trips be restricted to off peak traffic hours.

Response: Comment noted. The majority of on-road construction-related vehicular trips would be generated by construction workers traveling to and from the project site. However, as indicated in response to comment Department of California Highway Patrol #2, even with the addition of construction traffic, area roadways would continue to operate at an acceptable level of service. Please also see response to comment #8.

Comment Subject 12: Caltrans recommends that truck/equipment trips should be spaced to avoid vehicle congestion on SR 65 and to minimize interference with commuter traffic.

Response: While the project will result in an increase in traffic during construction, roadways in the vicinity of the project site will continue to operate at an acceptable level of service. Please refer to response to comment Department of California Highway Patrol #2.

Comment Subject 13: Caltrans recommends that direct access to SR 65 for construction related traffic should not be permitted for the Project parcel sites that are directly adjacent to SR 65.

Response: As stated on Draft EIR page 3.17-11, "Construction related vehicles will primarily access the Project site from existing local roadways, and may also utilize county roads (Avenue 56 and Richgrove Drive). The site will not be accessed directly from SR 65."

Further, no direct access is proposed from SR 65 into the project site. Draft EIR Appendix M Site Plan depicts the proposed site access locations.

Comment Subject 14: Caltrans recommends that water trucks should be present on site and utilized during the construction activities, especially grading and/or earth work to minimize dust in the area.

Response: *As indicated on Draft EIR page 3.3-20, the Project applicant will be required to control fugitive dust through compliance with San Joaquin Valley Unified Air Pollution Control District's Regulation VIII (Fugitive PM10 Prohibitions). Regulation VIII is the most robust and stringent regulation regarding control of fugitive dust emissions in the nation. Also, the Draft EIR includes Table 3.3-6 (at Nos. 5.4.2, 6.3.1, 6.3.3, and 6.3.4) which address the use of water trucks and a Dust Control Plan that must be sufficiently implemented to minimize dust. As such, the Draft EIR's discussion concerning dust control remains adequate.*

Comment Subject 15: Caltrans recommends that any personal or construction related vehicles should not be permitted to park along SR 65.

Response: *The County will include a condition of approval prohibiting the Applicant from allowing any personal or construction-related vehicles associated with the Project to park along SR 65 throughout the duration of project construction-related activities.*

Comment Subject 16: An encroachment permit will be required for work to construct Project transmission and/or collector lines located within or along SR 65.

Response: *Comment acknowledged. The Applicant will obtain an encroachment permit, as required, for any construction work necessary for transmission and/or collector lines located within or along SR 65.*

Comment Subject 17: An encroachment permit must be obtained for all proposed activities for placement of encroachments within, under or over the State highway rights-of-way. The Streets and Highways Code Section 670 provides Caltrans discretionary approval authority for projects that encroach on the State Highway System. Encroachment permits do not run with the land. A change of ownership requires a new permit application. Only the legal property owner or his/her authorized agent can pursue obtaining an encroachment permit. The Permit Department and the Environmental Planning Branch will review and approve the activity and work in the State right-of-way before an encroachment permit is issued. Please call the Caltrans Encroachment Permit Office - District 6: 1352 W. Olive, Fresno, CA 93778, at (559) 488-4058. [emphasis provided by commenter]

Response: *Comment noted. The Applicant will obtain an encroachment permit, as required, for any activities within, under or over the State highway rights-of-way. The County acknowledges the general stipulations of the encroachment permit, which will be the responsibility of the project applicant.*

Comment Subject 18: Prior to an encroachment permit application submittal, the project proponent is required to schedule a "Pre-Submittal" meeting with District 6 Encroachment Permit Office. Please contact District 6 Encroachment Permit Office at (559) 488-4058 to schedule this meeting. Please review the permit application checklist at [emphasis provided by commenter]:

<https://forms.dot.ca.gov/v2Forms/servlet/FormRenderer?frmId=TR0402&distpath=MAOTO&brapath=PERM>.

Response: *The County acknowledges that the Applicant is required to schedule a "Pre-Submittal" meeting with District 6 Encroachment Permit Office prior to encroachment permit application submittal.*

Comment Subject 19: If you have any other questions, please call me at (559) 488-7396.

Response: *Comment noted; we appreciate receiving Mr. Deel's contact information.*


The project will be heard before the Tulare County Planning Commission on August 26, 2020 for consideration of certifying the Final EIR and approving the project. The Final EIR will be available beginning August 14, 2020 at the following website:

<https://tularecounty.ca.gov/rma/index.cfm/planning-building/environmental-planning/environmental-impact-reports/rexford-solar-project-19-073/>

In closing, we sincerely appreciate Caltrans' comments which will be useful toward ensuring that the proposed Project complies with Caltrans' requirements/standards and with the California Environmental Quality Act.

If you have any questions regarding the above, please contact me at (559) 624-7121.

Very Best Regards,



Hector Guerra, Chief
Environmental Planning Division

Attachment: Caltrans comment letter dated June 10, 2020

Cc: File

DEPARTMENT OF TRANSPORTATION**DISTRICT 6 OFFICE**

1352 WEST OLIVE AVENUE

P.O. BOX 12616

FRESNO, CA 93778-2616

PHONE (559) 488-7396

FAX (559) 488-4088

TTY 711

www.dot.ca.gov

Making Conservation
a California Way of Life

June 10, 2020

06-TUL-65-2.82 - 7.26

DEIR

REXFORD SOLAR FARM
700 MW SOLAR FACILITY**SENT VIA EMAIL**

Mr. Hector Guerra, Chief Environmental Planner
Tulare County Resource Management Agency
Economic Development and Planning Branch
5961 South Mooney Boulevard
Visalia, CA 93277-9394

Dear Mr. Guerra:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR), proposing a 700-Megawatt (MW) Solar Facility and a 700-Megawatt AC Energy Storage System (ESS) located on 40 separate parcels totaling approximately 3,614 acres. Some of the Project sites are located west and east of the community of Ducor and some are located approximately 2½ miles south of Ducor which are north of the community of Richgrove. The Project sites are generally located south of Avenue 68, north of Avenue 12 and are bisected by State Route (SR) 65.

The DEIR states the following:

- The Project will install a ground mounted PV solar power generating system, supporting structures, inverter modules, pad mounted transformers, ESS, access roads and fencing, and on-site substation.
- The Project will also construct both transmission and collector lines. The transmission/collector lines would be located along portions of Road 232, Avenue 56, Avenue 64, Road 224, Road 240, Avenue 32, Richgrove Drive, and SR 65. The total length of the transmission and/or collector lines would be approximately 13 miles in length.
- The construction period for the Project, from site preparation through construction, testing, and commercial operation, is expected to commence as early as 2021 and could encompass approximately 12 to 24 months.
- Construction-related vehicles will primarily access the Project sites from SR 65 via county roads.

The mission of Caltrans is to provide a safe, sustainable, integrated and efficient

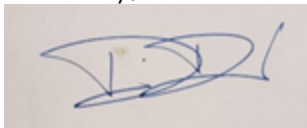
transportation system to enhance California's economy and livability. Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

1. In the DEIR Transportation section under heading 3.17.5 Regulatory Setting, the DEIR states that the June 2002 SR 65 Transportation Concept Report (TCR) was used for Level of Service, Ultimate Transportation Corridor (UTC) and other pertinent information.
2. Please note that in June 2014 the SR 65 TCR was updated.
3. According to the SR 65 Transportation Concept Report (TCR), segments 5 & 6 of SR 65, in the vicinity of this project, are planned to be widened as a 4-lane expressway within a total of 240 feet of right-of-way (120 feet from the centerline).
4. Caltrans is developing plans to widen SR 65 to a 4-lane divided expressway in a 4-phased construction project from the Tulare/Kern county line north to SR 65/SR 190 interchange.
5. Caltrans and TCAG has completed widening from the SR 65/SR 190 interchange, south to Avenue 124.
6. Phases 3 and 4 of the widening project (in the vicinity of the Solar Project sites) will widen SR 65 with 2 new lanes on the east side of the current highway alignment. This will result in the need for additional right-of-way ranging from approximately 50 feet to 140 feet.
7. Caltrans recommends that a coordination meeting be held with the applicant, Tulare County (lead agency), and Caltrans to discuss the specifics of the widening project and right-of-way impacts to the Project.
8. Caltrans anticipates that most of the traffic generated by the Project would be during the construction phase. The Project estimates that up to 1,000 workers per day (during peak construction periods) will be required during the construction phase of the Project.
9. Caltrans requests that construction Traffic Management Plan and Traffic Control Plan be prepared and provided to our office for review prior to the start of construction activities.
10. Once constructed, the Project will operate seven days a week, 24 hours a day. Maintenance of the solar panels may occur seven days a week, 24 hours a day to ensure optimum panel output and require an operational staff of up to 20 full-time employees.
11. Caltrans recommends that truck and equipment trips be restricted to off peak traffic hours.

12. Caltrans recommends that truck/equipment trips should be spaced to avoid vehicle congestion on SR 65 and to minimize interference with commuter traffic.
13. Caltrans recommends that direct access to SR 65 for construction related traffic should not be permitted for the Project parcel sites that are directly adjacent to SR 65.
14. Caltrans recommends that water trucks should be present on site and utilized during the construction activities, especially grading and/or earth work to minimize dust in the area.
15. Caltrans recommends that any personal or construction related vehicles should not be permitted to park along SR 65.
16. An encroachment permit will be required for work to construct Project transmission and/or collector lines located within or along SR 65.
17. An encroachment permit must be obtained for all proposed activities for placement of encroachments within, under or over the State highway rights-of-way. The Streets and Highways Code Section 670 provides Caltrans discretionary approval authority for projects that encroach on the State Highway System. Encroachment permits do not run with the land. A change of ownership requires a new permit application. Only the legal property owner or his/her authorized agent can pursue obtaining an encroachment permit. The Permit Department and the Environmental Planning Branch will review and approve the activity and work in the State right-of-way before an encroachment permit is issued. **Please call the Caltrans Encroachment Permit Office - District 6: 1352 W. Olive, Fresno, CA 93778, at (559) 488-4058.**
18. Prior to an encroachment permit application submittal, the project proponent is required to schedule a "Pre-Submittal" meeting with District 6 Encroachment Permit Office. **Please contact District 6 Encroachment Permit Office at (559) 488-4058 to schedule this meeting. Please review the permit application checklist at: <https://forms.dot.ca.gov/v2Forms/servlet/FormRenderer?frmId=TR0402&distpath=MAOTO&brapath=PERM>**

If you have any other questions, please call me at (559) 488-7396.

Sincerely,



DAVID DEEL
Associate Transportation Planner
Transportation Planning – North

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Attachment 6.

Comments Received from the California Farm Bureau Federation, Legal Services Division, June 18, 2020 and County Response to Comments

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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

MICHAEL WASHAM, ASSOCIATE DIRECTOR

August 14, 2020

SENT VIA EMAIL

Christian C. Scheuring, Managing Counsel
California Farm Bureau Federation
Legal Services Division
2600 River Plaza Drive
Sacramento, CA 95833

Subject: Response to Comments – Rexford Solar Farm (SCH# 2020020326)

Dear Mr. Scheuring:

Thank you for providing the California Farm Bureau Federation (Farm Bureau) response letter (dated June 18, 2020) regarding the Draft Environmental Impact Report (DEIR) for the Rexford Solar Project, State Clearinghouse #2020020326.

The County of Tulare (County) acknowledges and recognizes Farm Bureau's expertise relative to the proposed project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final EIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the project environmental documents.

Intro Comment: The Tulare County Farm Bureau and the California Farm Bureau Federation (collectively "Farm Bureau") provide the following focused comments on the Rexford Solar Farm Project ("Project") and its associated draft Environmental Impact Report ("draft EIR").

The California Farm Bureau Federation is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing 33,644 agricultural, associate and collegiate members in 56 counties, including the 1,338 members of the Tulare County Farm Bureau. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

It is not our purpose here to comment on the propriety of the Project as a matter of local planning and zoning, nor to comment generally on solar photovoltaic power generation. Rather, we wish to emphasize key requirements of state law under the Williamson Act that apply to the Project. The apparent majority of the 3,614-acre Project site is comprised of parcels under active Williamson Act contracts, which currently provide a substantial preferential tax assessment to the landowners in return for the purposes underwritten by the Act. As such, we expect that the County will require that the Project – if approved – comply fully with appropriate Williamson Act procedure and substance. Respectfully, we provide the following specific requirements of the Williamson Act for your review:

Response: *Comment noted. Please see responses to comments #1 and #2.*

Comment Subject 1:

1. Use Requirements For Williamson Act-Contracted Lands.

As an initial matter, under Government Code section 51242, no county may contract with respect to any land under the Williamson Act unless the land is devoted to agricultural use. That section sets forth the basic orientation of the Williamson Act, which is to enroll lands within agricultural preserves for the preservation of agriculture and associated values.

The Act delegates the counties the authority to establish their own rules regarding the administration of agricultural reserves under Government Code section 51231, including a specification of compatible uses. However, those compatible use rules are specifically required to be consistent with Government Code section 51238.1, which is protective of both agricultural use of individually contracted parcels and the other contracted lands in the vicinity of such a parcel. That section specifically states:

“(a) Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:

(1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

(2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.

(3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

In evaluating compatibility a board or council shall consider the impacts on noncontracted lands in the agricultural preserve or preserves.

(b) A board or council may include in its compatible use rules or ordinance conditional uses which, without conditions or mitigations, would not be in compliance with this section. These conditional uses shall conform to the principles of compatibility set forth in subdivision (a) or, for nonprime lands only, satisfy the requirements of subdivision (c). (c) In applying the criteria pursuant to subdivision (a), the board or council may approve a use on nonprime land which, because of onsite or offsite impacts, would not be in compliance with paragraphs (1) and (2) of subdivision (a), provided the use is approved pursuant to a conditional use permit that shall set forth findings, based on substantial evidence in the record, demonstrating the following:

(1) Conditions have been required for, or incorporated into, the use that mitigate or avoid those onsite and offsite impacts so as to make the use consistent with the principles set forth in paragraphs (1) and (2) of subdivision (a) to the greatest extent possible while maintaining the purpose of the use.

(2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.

(3) The use is consistent with the purposes of this chapter to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve. The use of mineral resources shall comply with Section 51238.2.

(4) The use does not include a residential subdivision.”

With apologies for quoting the foregoing section *in toto*, we submit that this section is key to understanding the placement of non-agricultural uses within agricultural preserves under the Williamson Act, and should guide the County in its administration of the Williamson Act contracts covering the Project lands unless an option for terminating the contracts is pursued to facilitate Project approval.

Response: *This Special Use Permit is conditioned upon and will not be 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.*

Specifically, as a condition of project approval (special use permit condition), the County will require the applicant to provide payment for loss of Williamson Act Subventions. The County will require that the applicant pay to County the amount of any losses (including losses for any partial tax year) in state subventions associated with real property taxes assessed pursuant to the California Agricultural Land Conservation Act of 1965, also known as "the Williamson Act" (Government Code, §§ 51200 et seq.). This condition of approval will include that the applicant shall not be required to pay for any subvention losses (a) if there is no subvention loss suffered during any fiscal year occurring within the duration of each special use permit, or (b) if the land conservation contract expires or is cancelled pursuant to law. Any cancellation fees shall be paid to the state of California.

The condition of approval will stipulate that the applicant shall pay any annual subvention losses upon thirty (30) days written notice provided by the County. In determining the amount of any subvention losses, the County may consult with the County Assessor and Auditor-Controller. In determining said losses, if any, County shall consider and include any and all lease revenue accruing to land affected by the Williamson Act. In addition to future subvention losses, within 45 days of signing the developer agreement, the applicant will be required to pay for the project property backdated subvention losses in the amount of determined by the County.

Comment Subject 2:

2. Alternatives for Williamson Act Contract Termination.

Where compatible use is not indicated on a Williamson Act parcel, any extant contract must be terminated through either non-renewal or cancellation prior to the beginning of a new land use which is incompatible with agriculture. Non-renewal is the preferred method of exiting a Williamson Act contract, and is entirely at the election of the landowner or county. Cancellation is reserved for exigent circumstances, and requires a county to make very specific findings which are supported by substantial evidence.

There is a further option in the case of proposed solar projects: contract rescission in favor of a solar use easement, where certain specified findings can be made with respect to the project soils and water supply. This process requires application to the county, as well as a determination that the land is of marginal productivity by the state Department of Conservation. This option was enacted into law by Senate Bill 618 in 2011.

It does not appear that the Project applicant has either entered into the contract non-renewal process for the affected lands or pursued contract cancellation; neither does it appear that contract rescission and appropriate solar-use easements have been considered. As such, if the Project is approved, the substantial acreage involved which is enrolled in ongoing Williamson Act contracts will continue to receive substantial tax benefits under a program designed to serve agricultural goals. Whether this is appropriate policy or not is an open question;

regardless, if approved, the solar use of these parcels must comport with the clear requirements of Government Code section 51238.1 as to surrounding agriculture.

Response: *As a condition of project approval, the applicant 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. The property owner shall sign a Right to Farm Notice and return it to the Resource Management Agency within 10 days so that the notice can be recorded with the Resolution approving this Special Use Permit, with the Tulare County Recorder's Office.*

Comment Subject 3: Farm Bureau appreciates your consideration of the foregoing, and the County's continuing commitment to both agriculture in general and the Williamson Act in particular.

Response: *Comment noted; Farm Bureau sharing the same commitments to agriculture as the County.*

The project will be heard before the Tulare County Planning Commission on August 26, 2020 for consideration of certifying the Final EIR and approving the project. The Final EIR will be available beginning August 14, 2020 at the following website:

<https://tularecounty.ca.gov/rma/index.cfm/planning-building/environmental-planning/environmental-impact-reports/rexford-solar-project-pp-19-073/>

In closing, we sincerely appreciate Farm Bureau's comments and our shared commitment to agriculture.

If you have any questions regarding the above, please contact me at (559) 624-7121.

Very Best Regards,



Hector Guerra, Chief
Environmental Planning Division

Attachment: California Farm Bureau Federation comment letter dated June 18, 2020

Cc: Tricia Stever Blattler, Executive Director – Tulare County Farm Bureau
737 N. Ben Maddox Way, Visalia, CA 93292
File

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CALIFORNIA FARM BUREAU FEDERATION

LEGAL SERVICES DIVISION

2600 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833 • PHONE (916) 561-5665

June 18, 2020

via U.S. Mail & Email

[\(hguerra@co.tulare.ca.us\)](mailto:hguerra@co.tulare.ca.us)

Mr. Hector Guerra

Chief Environmental Planner

Tulare County Resource Management Agency

5961 South Mooney Boulevard

Visalia, CA 93277

Re: Rexford Solar Farm – Draft Environmental Impact Report

Dear Mr. Guerra:

The Tulare County Farm Bureau and the California Farm Bureau Federation (collectively “Farm Bureau”) provide the following focused comments on the Rexford Solar Farm Project (“Project”) and its associated draft Environmental Impact Report (“draft EIR”).

The California Farm Bureau Federation is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing 33,644 agricultural, associate and collegiate members in 56 counties, including the 1,338 members of the Tulare County Farm Bureau. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

It is not our purpose here to comment on the propriety of the Project as a matter of local planning and zoning, nor to comment generally on solar photovoltaic power generation. Rather, we wish to emphasize key requirements of state law under the Williamson Act that apply to the Project. The apparent majority of the 3,614-acre Project site is comprised of parcels under active Williamson Act contracts, which currently provide a substantial preferential tax assessment to the landowners in return for the purposes underwritten by the Act. As such, we expect that the County will require that the Project – if approved – comply fully with appropriate Williamson



Act procedure and substance. Respectfully, we provide the following specific requirements of the Williamson Act for your review:

1. Use Requirements For Williamson Act-Contracted Lands.

As an initial matter, under Government Code section 51242, no county may contract with respect to any land under the Williamson Act unless the land is devoted to agricultural use. That section sets forth the basic orientation of the Williamson Act, which is to enroll lands within agricultural preserves for the preservation of agriculture and associated values.

The Act delegates the counties the authority to establish their own rules regarding the administration of agricultural reserves under Government Code section 51231, including a specification of compatible uses. However, those compatible use rules are specifically required to be consistent with Government Code section 51238.1, which is protective of both agricultural use of individually contracted parcels and the other contracted lands in the vicinity of such a parcel. That section specifically states:

“(a) Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:

(1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

(2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.

(3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

In evaluating compatibility a board or council shall consider the impacts on noncontracted lands in the agricultural preserve or preserves.

(b) A board or council may include in its compatible use rules or ordinance conditional uses which, without conditions or mitigations, would not be in compliance with this section. These conditional uses shall conform to the principles of compatibility set forth in subdivision (a) or, for nonprime lands only, satisfy the requirements of subdivision (c).

(c) In applying the criteria pursuant to subdivision (a), the board or council may approve a use on nonprime land which, because of onsite or offsite impacts, would not be in compliance with paragraphs (1) and (2) of subdivision (a), provided the use is approved pursuant to a conditional use permit that shall set forth findings, based on substantial evidence in the record, demonstrating the following:

(1) Conditions have been required for, or incorporated into, the use that mitigate or avoid those onsite and offsite impacts so as to make the use consistent with the principles set forth in paragraphs (1) and (2) of subdivision (a) to the greatest extent possible while maintaining the purpose of the use.

(2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.

(3) The use is consistent with the purposes of this chapter to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve. The use of mineral resources shall comply with Section 51238.2.

(4) The use does not include a residential subdivision.”

With apologies for quoting the foregoing section *in toto*, we submit that this section is key to understanding the placement of non-agricultural uses within agricultural preserves under the Williamson Act, and should guide the County in its administration of the Williamson Act contracts covering the Project lands unless an option for terminating the contracts is pursued to facilitate Project approval.

2. Alternatives for Williamson Act Contract Termination.

Where compatible use is not indicated on a Williamson Act parcel, any extant contract must be terminated through either non-renewal or cancellation prior to the beginning of a new land use which is incompatible with agriculture. Non-renewal is the preferred method of exiting a Williamson Act contract, and is entirely at the election of the landowner or county. Cancellation is reserved for exigent circumstances, and requires a county to make very specific findings which are supported by substantial evidence.

There is a further option in the case of proposed solar projects: contract rescission in favor of a solar use easement, where certain specified findings can be made with respect to the project soils and water supply. This process requires application to the county, as well as a determination that the land is of marginal productivity by the state Department of Conservation. This option was enacted into law by Senate Bill 618 in 2011.

Mr. Hector Guerra

June 18, 2020

Page 4

It does not appear that the Project applicant has either entered into the contract non-renewal process for the affected lands or pursued contract cancellation; neither does it appear that contract rescission and appropriate solar-use easements have been considered. As such, if the Project is approved, the substantial acreage involved which is enrolled in ongoing Williamson Act contracts will continue to receive substantial tax benefits under a program designed to serve agricultural goals. Whether this is appropriate policy or not is an open question; regardless, if approved, the solar use of these parcels must comport with the clear requirements of Government Code section 51238.1 as to surrounding agriculture.

Farm Bureau appreciates your consideration of the foregoing, and the County's continuing commitment to both agriculture in general and the Williamson Act in particular.

Sincerely,

CALIFORNIA FARM BUREAU FEDERATION

A handwritten signature in blue ink, appearing to read 'C. Scheuring'.

Christian C. Scheuring
Managing Counsel

TULARE COUNTY FARM BUREAU

A handwritten signature in black ink, appearing to read 'Tricia Stever Blattler'.

Tricia Stever Blattler
Executive Director
Tulare County Farm Bureau

cc: Jessica Wills, Planner IV
Tulare County Resource Management Agency
Economic Development and Planning Branch
Environmental Planning Division
(jwillis@co.tulare.ca.us)



Attachment 7.

Comments Received from San Joaquin Valley Unified Air Pollution Control District, July 14, 2020 and County Response to Comments

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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

MICHAEL WASHAM, ASSOCIATE DIRECTOR

August 14, 2020

SENT VIA EMAIL

Arnaud Marjollet, Director of Permit Services
San Joaquin Valley Unified Air Pollution Control District
1990 E. Gettysburg Ave.
Fresno, CA 93726-0244

Subject: Response to Comments – Rexford Solar Project, SCH# 2020020326

Dear Mr. Marjollet,

Thank you for providing the San Joaquin Valley Air Pollution Control District (Air District) letter response (dated July 14, 2020) regarding the Draft Environmental Impact Report (DEIR) for the Rexford Solar Project, SCH# 2020020326.

The County of Tulare (County) acknowledges and recognizes the Air District's authority and expertise regarding air quality issues relative to the proposed project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final EIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the project environmental documents.

Intro Comment: The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the project referenced above from the County of Tulare (County). The project consists of the construction and operation of an up to 700 megawatt alternative current (MW AC) solar photovoltaic (PV) facility and up to 700 AC energy storage system (ESS) (Project). The Project is located at approximately 3,614 acres of land in unincorporated south-central Tulare County, CA (APN 321-190-001, 321-040-025, 321-040-008, 323-040-007, 321-070-014, 321-070-026, 321-040-011). The District offers the following comments:

Response: *Comment noted; the District is correctly restating the Project.*

Comment Subject 1:

1. District Rule 9510 (Indirect Source Review)

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

When subject to the rule, an Air Impact Assessment (AIA) application is required prior to applying for project-level approval from a public agency. At this time, the District has no record that an AIA application has been submitted. Please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510.

In addition, the District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit, be made a condition of Project approval.

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

Information about how to comply with District Rule 9510 can be found online at:

<http://www.valleyair.org/ISR/ISRHome.htm>

The AIA application form can be found online at:

<http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>

Response: *Comment noted. The County has advised the project applicant that compliance with District Rule 9510 is required, that an AIA application will be required, and demonstration of compliance with District Rule 9510 will be required. Additionally, Draft EIR page 3.3-22 summarizes District Rule 9510, and as described on pages 3.3-22 and 3.3-23, Tulare County General Plan Policy AQ-2.2 Indirect Source Review, "The County shall require major development projects, as defined by the SJVAPCD, to reasonably mitigate air quality impacts associated with the project. The County shall notify developers of SJVAPCD Rule 9510 – Indirect Source Review requirements and work with SJVAPCD to determine mitigations, as feasible..."*

As shown in Table 3.3 8, compliance with SJVAPCD Rule 9510 will reduce annual emissions of NOX to 9.7 tons/year, which will not exceed SJVAPCD's NOX threshold. No other criteria pollutant threshold will be exceeded during construction with or without adherence to SJVAPCD Rule 9510.

Comment #2:

2. District Rules and Regulations

- A. This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. Prior to construction, the Project proponent should submit to the District an application for an Authority to Construct (ATC). For further information or assistance, the project proponent may contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.
- B. The Project may also be subject to District rules and regulations, including: Regulation VIII (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the Project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).
- C. The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.
Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm

Response: *The County appreciates receipt of this information and will work with the applicant to ensure applicable District rules, regulations, permitting, etc., are adhered to. EIR pages 3.3-21 and 3.3-22 summarize the District's policies and regulations. Please refer to response to comment #1.*

Comment Subject 3: If you have any questions or require further information, please contact Cherie Clark by e-mail at Cherie.Clark@valleyair.org or by phone at (559) 230-5940.

Response: *Comment noted; the County appreciates receiving Ms. Clark's contact information.*

The project will be heard before the Tulare County Planning Commission on August 26, 2020 for consideration of certifying the Final EIR and approving the project. The Final EIR will be available beginning August 14, 2020 at the following website:

<https://tularecounty.ca.gov/rma/index.cfm/planning-building/environmental-planning/environmental-impact-reports/rexford-solar-project-psp-19-073/>

In closing, we sincerely appreciate the Air District's comments which will be useful toward ensuring that the proposed Project complies with Air District regulations and with the California Environmental Quality Act.

If you have any questions regarding the above, please contact me at (559) 624-7121.

Very Best Regards,



Hector Guerra, Chief
Environmental Planning Division

Attachment: Air District comment letter dated July 14, 2020

Cc: File



July 14, 2020

Hector Guerra
Tulare County
Resource Management Agency
5961 South Mooney Blvd.
Visalia, CA 93277

Project: Draft Environmental Impact Report Rexford Solar Farm

District CEQA Reference No: 20200385

Dear Mr. Guerra:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the project referenced above from the County of Tulare (County). The project consists of the construction and operation of an up to 700 megawatt alternative current (MW AC) solar photovoltaic (PV) facility and up to 700 AC energy storage system (ESS) (Project). The Project is located at approximately 3,614 acres of land in unincorporated south-central Tulare County, CA (APN 321-190-001, 321-040-025, 321-040-008, 323-040-007, 321-070-014, 321-070-026, 321-040-011). The District offers the following comments:

1. District Rule 9510 (Indirect Source Review)

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

When subject to the rule, an Air Impact Assessment (AIA) application is required prior to applying for project-level approval from a public agency. At this time, the District has no record that an AIA application has been submitted. Please inform the project

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

proponent to immediately submit an AIA application to the District to comply with District Rule 9510.

In addition, the District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit, be made a condition of Project approval.

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

Information about how to comply with District Rule 9510 can be found online at: <http://www.valleyair.org/ISR/ISRHome.htm>.

The AIA application form can be found online at: <http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>.

2. District Rules and Regulations

- A. This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. Prior to construction, the Project proponent should submit to the District an application for an Authority to Construct (ATC). For further information or assistance, the project proponent may contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.
- B. The Project may also be subject to District rules and regulations, including: Regulation VIII (Fugitive PM₁₀ Prohibitions), Rule 4102 (Nuisance), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the Project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).
- C. The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm.

If you have any questions or require further information, please contact Cherie Clark by e-mail at Cherie.Clark@valleyair.org or by phone at (559) 230-5940.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Arnaud Marjollet', with a stylized flourish at the end.

For Arnaud Marjollet
Director of Permit Services

AM: cc

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Attachment 8. Comments Received from Henry (Dave) Nenna, June 15, 2020 and County Response to Comments

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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

MICHAEL WASHAM, ASSOCIATE DIRECTOR

August 14, 2020

SENT VIA EMAIL

Mr. Henry (Dave) Nenna (USA Ret.)
6006 Road 248
Ducor, CA 93218

Subject: Response to Comments – Rexford Solar Farm (SCH# 2020020326)

Dear Mr. Nenna (USA Ret):

Thank you for providing your letter response (received via e-mail June 16, 2020) regarding the Draft Environmental Impact Report (DEIR) for the Rexford Solar Farm Project, State Clearinghouse #20200203267.

The County of Tulare (County) appreciates your comments relative to the proposed project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final EIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the project environmental documents.

Comment Subject 1: Photos that were a part of the submittal did not portray some of the actual area, only the area best suited for a positive outcome.

Response: *A visual analysis was prepared for the proposed project in accordance with CEQA and in consideration of County policies as provided in Draft EIR Section 3.1 Aesthetics. As explained on Draft EIR page 3.1-2, a site reconnaissance was conducted to identify visual resources in the general Project area, including the Project site. Viewpoints within the general Project area were selected based on the potential to see the site from surrounding areas and are considered the worst-case condition (for public viewing), as they would be most visible to the general public at these locations. As shown in Draft EIR Figures 3.1-2 through 3.1-7, the existing visual character of the Project site is dominated by rural agricultural lands. These photos depict similar visual characteristics as would be seen from the commenter's property. As stated on Draft EIR page 3.1-16, "The photo simulations presented are by no means representative of all views affected. They are included to provide the reader with a better overall sense of Project changes to the existing environment as well as to help visualize public perception and responses to these changes."*

There are no designated scenic vistas within the Project vicinity that will be affected by the Project. The profiles of solar photovoltaic panels are limited to 8 feet high at full tilt (the panels will not be at full tilt the majority of the day as they track the sun); therefore, the height would be lower than 8 feet the majority of the day). The Project will include structures (e.g., panels, transmission lines, collector lines, etc.) that are similar to existing utility infrastructure in the area. Given these facts, implementation of the proposed Project will not adversely affect any scenic vistas.

Further, there are no designated state scenic highways in the Project vicinity or in Tulare County. Portions of State Routes 190, 198, and 80 are eligible for state scenic highway designation, but are not located in the Project vicinity. The Project site is not visible from any of the Tulare County eligible state scenic highways. The nearest eligible scenic highway is State Route 190, located approximately 9.75 miles north of the Project site.

Comment Subject 2: Minimal noise of 44db in front of my home while the panels track, this will go on throughout the day.

Response: *Noise measurements were taken at locations to provide a representative range of ambient noise levels across the Project site and in the nearby area, especially near existing noise sensitive residences and roadways. The existing noise levels in the project area range from 35 up to 67 dBA leq. As shown on Draft EIR Table 3.13-6 (see page 3.13-13) the calculated noise level for this specific residential property with project operations, located in an agricultural zone is 52-58 dba ldn, well below the noise standard.*

Further, as described on Draft EIR page 3.13-13, PV panel noise will come from the tracking motors. While these motors may generate noise of up to 44 dBA at 50 feet, these motors will operate briefly throughout an hour (e.g., several minutes per hour) as the sun moves west across the sky, and then will reset at night to face the eastern sky. For example, tracking motors operating for five minutes out of an hour will result in an hourly noise level of 33 dBA at 50 feet. The nearest sensitive noise receptors to the Project site are located approximately 150 feet from the project site (Draft EIR page 3.13-9). Therefore, by operating only several minutes per hour, the hourly noise level will be well below the existing ambient noise levels at the nearest sensitive receivers. In addition, as observed during a site visit to existing solar farms in Kern County on September 19, 2019 by Bill Vosti, a Rincon Consultants, Inc. qualified noise expert (whom prepared the Noise Study contained in Appendix I of the Draft EIR), noise levels from PV panel tracking were not detected over existing ambient noise sources such as wind, vehicles, planes, and trains just outside of the observed solar farm properties, which are similar in layout and construction to the proposed Project. Therefore, noise levels from the PV panels will be less than significant.

Comment Subject 3: What distraction will the reflection of the panels create for pilots flying the Tule VOR using runway 30 at Porterville airport? I am a pilot as well as many of my associates that may have the same concern.

Response: *As stated on Draft EIR page 3.9-13, the Project site is not located within an area covered by an airport land use plan or within two miles of a public airport or public use airport. The Porterville Municipal Airport is located approximately 7.6 miles north of the Project site. The San Joaquin Sprayers Incorporated Heliport is located approximately 6.12 miles southwest of the Project site. Therefore, the Project will not interfere with airport operations or results in a safety hazard for people residing or working in the Project area. Thus, no significant impact will occur.*

The proposed project is not located within an airport compatibility zone that would restrict the type of development that could occur due to potential conflicts with airport operations. Based on review of the Tulare County Comprehensive Airport Land Use Plan (CALUP), (December 2012), the proposed project is not located within the Airport Influence Area as illustrated on Figure PVT-2 of the CALUP. Although not located within either the airports' designated Safety Zone 6 or the Airport Influence Area, as identified on Table 3-1 Tulare County Airport Land Use Compatibility, "Electric Power Plants (including wind turbines and solar) and overhead transmission lines" are identified as "Compatible" land uses within both Safety Zone 6 and the Airport Influence Area.

As explained on Draft EIR page 3.1-25, the proposed Project will involve the installation of PV solar systems, which convert sunlight directly into electricity, and by their shear nature, are non-reflective. "By nature, PV panels are designed to absorb as much of the solar spectrum as possible in order to convert sunlight to electricity and are furnished with anti-reflective coating for that purpose. Reflectivity levels of solar panels are decisively lower than standard glass or galvanized steel, and should not pose a reflectance hazard to area viewers." Other glare sources in nature (free water surfaces) have a higher glare effect than PV modules. "Reflected light from standard PV modules' surface is between 10 to 20 percent of the incident radiation (as low as free water surfaces), while galvanized steel (used in industrial roofs) is between 40 to 90 percent. The Project will generally avoid the use of materials, such as fiberglass, aluminum or vinyl/plastic siding, galvanized products, and brightly painted steel roofs, which have the potential to create on- and off-site glare impacts.

One measure of reflectivity is albedo—the ratio of solar radiation across the visible and invisible light spectrum reflected by a surface. Albedo varies between 0, a surface that reflects no light, and 1, a mirror-like surface that reflects all incoming light. Solar panels with a single anti-reflective coating have a reflectivity of approximately 0.13 (Good Company 2011). By comparison, sand has an albedo between 0.15 and 0.45 and agricultural vegetation has an albedo between 0.18 and 0.25. Given the project sites distance from the Porterville Airport, the project would not use materials that would reflect significant levels of glare or glint upwards in a manner that could affect flight operations.

Comment Subject 4: Will the panels produce harmonic noise when in production? At the Porterville solar farm off West Ave., Driving past you lose all radio signal, will this also interfere with aviation traffic while on short final to Porterville?

Response: *No harmonic noise will be produced by the PV panels or transmission lines and therefore the project would not interfere with radio frequencies. Solar projects are commonly constructed in proximity to airports as they are considered a compatible use, as they are for the Porterville Airport (see response to comment #3).*

Comment Subject 5: According to the proposed layout of the panel grid, they will be directly in front of my house, I will no longer have my beautiful open view that was a consideration when we purchased our home over 20 years ago.

Response: *This comment is acknowledged. Please refer to response to comment #1.*

Comment Subject 6: Being this close to these panels, will this have a negative impact on my property value?

Response: *Potential changes in property values as a result of a project are not required to be analyzed in accordance with the California Environmental Quality Act. As such, no further response is necessary.*

Comment Subject 7: My home is equipped with 32 roof mounted panels, at my age it is difficult to keep them clean because of the dust, during construction my panels will require more frequent maintenance/cleaning. The dust abatement mitigation is imperfect, will measure be taken to water more frequent during construction.

Response: *The project applicant will be required to control fugitive dust through compliance with Regulation VIII (Fugitive PM10 Prohibitions) and Rule 8021, Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities. Rule 8021 requires dust reduction techniques, such as watering, to sufficiently limit visible dust emissions. Draft EIR Table 3.3-6 (see Draft EIR page 3.3-21), provides the various control measures required to be implemented during construction activities. These measures include, but are not limited to, activities such as pre-watering the site, phasing work to reduce the amount of area of disturbance during any one time, applying water or chemical/organic stabilizers/suppressants to unpaved haul/access roads and unpaved vehicle/equipment traffic areas, limiting construction vehicle speeds, preparation of a dust control plan for approval by the Air District. Lastly, commenter's home is located upwind (north) of the Project site whereas prevailing winds typically originate from the northwest flowing southeast thereby pushing potential fugitive dust away from the home site.*

Comment Subject 8: The document mentions landscape, it does not elude to the nature of type, it does [not] have any mitigation measures for a home this close to the proposed project.

Response: *As indicated in Draft EIR Section 3.1 Aesthetics (see Draft EIR page 3.1-13, the Tulare County General Plan has several policies that apply to projects within the County of Tulare. This includes General Plan policy SL-1.1 Natural Landscapes which states:*

SL-1.1 Natural Landscapes. During review of discretionary approvals, including parcel and subdivision maps, the County shall as appropriate, require new development to not significantly impact or block views of Tulare County's natural landscapes. To this end, the County may require new development to:

- 1. Be sited to minimize obstruction of views from public lands and rights-of-ways,*
- 2. Be designed to reduce visual prominence by keeping development below ridge lines, using regionally familiar architectural forms, materials, and colors that blend structures into the landscape,*
- 3. Screen parking areas from view,*
- 4. Including landscaping that screens the development,*
- 5. Limit the impact of new roadways and grading on natural settings, and*
- 6. Include signage that is compatible and in character with the location and building design.*

The project will comply with applicable policies for landscaping and requirements of the zone for the project

Comment Subject 9: What if any health issues will there be? Is there any case study of people living this close? Will there be long term effects?

Response: *The solar energy facility is a renewable form of power generation that does not generate any harmful emissions. Therefore, the operation of the facility would not pose any health risk. Solar PV panels and arrays, and supporting infrastructure, as proposed under the proposed project, are similar to the types of solar photovoltaic systems installed on rooftops and/or parking lots of residential, schools, commercial, and industrial land uses.*

Potential health issues associated with the proposed project would be limited to potential effects to sensitive receptors located in the vicinity of construction-related activities during the construction phase of the project only. Draft EIR Section 3.3 Air Quality addresses the potential health effects including air pollutants of concern – ozone, nitrogen dioxide, carbon monoxide, particulate matter (PM10 and PM2.5), sulfur dioxide, and reactive organic gases. Additionally, other potential health effects addressed in the Draft EIR include toxic air contaminants, diesel particulate matter, and naturally occurring asbestos.

The San Joaquin Valley Unified Air Pollution Control District (SJVAPCD or Air District) considers hospitals, schools, parks, playgrounds, daycare centers, nursing homes, convalescent facilities, and residential areas as sensitive receptors. As identified in the Draft

EIR, the sensitive receptors with the highest potential to be affected by the Project include residential land uses located in the community of Ducor, within one mile (5,280 feet) of the Project site. While there are several agricultural properties adjacent to the Project site, there are four rural residences located within 500 feet of the Project site. The nearest sensitive receptor to the Project site is a rural residence located approximately 90 feet southwest of the Project Site boundary across Road 224 (see Draft EIR Figure 3.3-1, Draft EIR page 3.3-12). Compliance with SJVAPCD Rule 9510 will reduce annual construction emissions below the Air District's NOX threshold. No other criteria pollutant threshold will be exceeded during construction with or without adherence to Air District Rule 9510.

Further, with respect to potential health effects associated with carbon monoxide, even at the high end of the daily traffic volume (i.e., 6,742), vehicle trips will not result in a CO hotspot due to the small magnitude of emission sources and the low emission rates that occur due to catalytic converters. Additionally, the Project site is located in a rural flat area where air dispersion is not impeded by buildings or nearby terrain; therefore, CO emissions generated will disperse rapidly and construction traffic will not generate CO hotspots and the potential impact was determined to be less than significant.

With respect to Diesel Particulate Matter (DPM), construction of the proposed Project will require use of heavy-duty construction equipment and diesel trucks which will emit DPM. The carcinogenic and chronic health risks at the PMI and MEIR are provided in Draft EIR Table 3.3-12 (see page 3.3-37). As shown, excess cancer risk and chronic risk associated with Project construction and decommissioning will not exceed the risk criteria (2.00E-05) at the receptor grid MEIR even if construction occurred at all parcels simultaneously. Additionally, the SJVAPCD reviewed the air quality analysis provided in Draft EIR and did not identify any potential DPM or other health risk impacts associated with the Project.

Project operation will not result in adverse health impacts.

Comment Subject 10: These are only a few questions and concerns I have on such short notice, thank you for allowing this letter to be a part of the record in behalf of myself and my wife.

Response: *Comment noted. The Draft EIR was made available for public review for a period of 45-days in accordance with State requirements. The County complied with all applicable public noticing requirements. Additional noticing will be provided as the project gets closer to a hearing.*

The project will be heard before the Tulare County Planning Commission on August 26, 2020 for consideration of certifying the Final EIR and approving the project. The Final EIR will be available beginning August 14, 2020 at the following website:

<https://tularecounty.ca.gov/rma/index.cfm/planning-building/environmental-planning/environmental-impact-reports/rexford-solar-project-19-073/>

In closing Mr. Nenna, we sincerely appreciate your comments which will be useful toward ensuring that the proposed Project complies with requirements/standards/permits/etc. required by other regulatory agencies and within the County's jurisdiction, and with the California Environmental Quality Act.

If you have any questions regarding the above, please contact me at (559) 624-7121.

Best Regards,



Hector Guerra, Chief
Environmental Planning Division

Attachment: Mr. Henry (Dave) Nenna (USA Ret.) comment letter received June 16, 2020

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TO:

Hector Guerra, Chief Environmental Planner
Tulare County Resources Management Agency
5961 South Mooney Blvd
Visalia, Ca 93277

FROM:

Henry (Dave) Nenna (USA Ret)
6006 Road 248
Ducor, Ca 93218

RE: Rexford Solar Project (PSP 19-073), questions/ concerns/comments

Dear Mr. Guerra,

Thank you for accepting my letter of concern about project PSP 19-073

I have read the documents that were submitted to the County, some of my questions were answered, although not completely,

1. Photos that were a part of the submittal did not portray some of the actual area, only the area best suited for a positive outcome.
2. Minimal noise of 44db in front of my home while the panels track, this will go on throughout the day.
3. What distraction will the reflection of the panels create for pilots flying the Tule VOR using runway 30 at Porterville airport? I am a pilot as well as many of my associates that may have the same concern.
4. Will the panels produce harmonic noise when in production? At the Porterville solar farm off West Ave., Driving past you lose all radio signal, will this also interfere with aviation traffic while on short final to Porterville?
5. According to the proposed layout of the panel grid, they will be directly in front of my house, I will no longer have my beautiful open view that was a consideration when we purchased our home over 20 years ago.
6. Being this close to these panels, will this have a negative impact on my property value?
7. My home is equipped with 32 roof mounted panels, at my age it is difficult to keep them clean because of the dust, during construction my panels will require more frequent

maintenance/cleaning. The dust abatement mitigation is imperfect, will measures be taken to water more frequent during construction.

8. The document mentions landscape, it does not elude to the nature of type, it does not have any mitigation measures for a home this close to the proposed project.
9. What if any health issues will there be? Is there any case study of people living this close? Will there be long term effects?

These are only a few questions and concerns I have on such short notice, thank you for allowing this letter to be a part of the record in behalf of myself and my wife.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Nenna", written over the word "Sincerely,".

Henry (Dave) Nenna

USA (Ret)

8 Mitigation Monitoring and Reporting Program

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared in compliance with State law and based upon the findings of the Environmental Impact Report (EIR) for the proposed Project. The MMRP lists mitigation measures recommended in the EIR for the proposed Project and identifies monitoring and reporting requirements.

The CEQA Public Resources Code Section 21081.6 requires the Lead Agency decision making body is going to approve a project and certify the EIR that it also adopt a reporting or monitoring program for those measures recommended to mitigate or avoid significant/adverse effects of the environment identified in the EIR. The law states that the reporting or monitoring program shall be designed to ensure compliance during project implementation. The MMRP is to contain the following elements:

- **Action and Procedure.** The mitigation measures are recorded with the action and procedure necessary to ensure compliance. In some instances, one action may be used to verify implementation of several mitigation measures.
- **Compliance and Verification.** A procedure for compliance and verification has been outlined for each action necessary. This procedure designates who will take action, what action will be taken and when and by whom and compliance will be monitored and reported and to whom it will be report. As necessary the reporting should indicate any follow-up actions that might be necessary if the reporting notes the impact has not been mitigated.
- **Flexibility.** The program has been designed to be flexible. As monitoring progresses, changes to compliance procedures may be necessary based upon the recommendations by those responsible for the MMRP. As changes are made, new monitoring compliance procedures and records will be developed and incorporated into the program.

Table 8-1 presents the Mitigation Measures identified for the proposed Project in this EIR. The first column of the table identifies the Mitigation Measure. The second column, entitled “Monitoring Timing/Frequency,” identifies the time the Mitigation Measure should be initiated and the frequency of the monitoring that should take place to assure the mitigation is being or has been implemented to achieve the desired outcome or performance standard. The third column, “Action Indicating Compliance,” identifies the requirements of compliance with the Mitigation Measure. The fourth column, “Monitoring Agency,” names the party ultimately responsible for ensuring that the Mitigation Measure is implemented. The fifth column, “Person/Agency Conducting Monitoring/Reporting” names the party/agency/entity responsible for verification that the Mitigation Measure has been implemented. The last three columns will be used by the Lead Agency (County of Tulare) to ensure that individual Mitigation Measures have been complied with and monitored.

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Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
Biological Resources						
3.4-1. San Joaquin Adobe Sunburst. A pre-construction survey for San Joaquin Adobe Sunburst within fallow agricultural fields and vegetation surrounding isolated wetlands within the Project site will be conducted by a qualified botanist during its blooming period (February- April) following CDFW and USFWS special-status plant survey guidelines to determine if populations are present. If detected, San Joaquin adobe sunburst locations within the Project site will be flagged, and a 150-foot avoidance buffer established. If avoidance is not feasible, consultation with USFWS and CDFW to determine compensatory mitigation measures would occur before construction-related activity could continue.	Prior to issuance of grading permits	Retention of professional biologist/ongoing monitoring/submittal of Report of Findings, if applicable	County of Tulare Planning Department and/or CDFW			
3.4-2. San Joaquin Kit Fox. A pre-construction clearance survey for San Joaquin kit fox shall be conducted not less than 14 days and not more than 30 days prior to the initiation of ground-disturbing activities. The survey areas shall include the entire Project site and all undeveloped habitat within 200 feet. If no potential dens are located, construction-related activity may proceed. If a potential den is located, an infrared camera trap shall be placed at the den entrance for three days to confirm species occupancy. If San Joaquin kit fox use is observed, the den shall be avoided and the USFWS shall be contacted. Construction-related activities shall adhere to the avoidance and minimization measures outlined in the Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance(USFWS 2011), outlined below: 3.4-2. a. Project-related vehicles shall observe a 20-mph speed limit in all Project areas, except on County roads and State and Federal highways; this is particularly important at night when kit fox are most active. To the extent possible, night-time construction-related activity shall be minimized. Off-	Prior to issuance of grading permits Ongoing monitoring during subsurface excavation	Retention of professional biologist/ongoing monitoring/submittal of Report of Findings, if applicable.	County of Tulare Planning Department and/or CDFW			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
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road traffic outside of designated Project areas shall be prohibited.						
3.4-2.b. To prevent inadvertent entrapment of kit fox or other animals during the construction-related activity phase of the Project, all excavated, steep-walled holes or trenches more than two (2) feet deep shall be covered at the close of each working day by plywood or similar materials or provided with one (1) or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they shall be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS shall be notified within three days of the discovery.						
3.4-2.c. 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 a construction-related activity or Project site.						
3.4-2.d. No firearms or pets shall be allowed on the Project site.						
3.4-2.e. Use of rodenticides and herbicides in Project areas should be restricted. This is necessary to prevent primary or secondary poisoning of kit fox and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, California Department of Pesticide Regulation, and other State and Federal legislation, as well as additional Project-related restrictions deemed necessary by the USFW Service. If rodent control must be conducted, zinc						

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
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phosphide should be used because of proven low risk to kit fox.						
3.4-3. Worker Environmental Awareness Program. Prior to the issuance of grading or building permits, and for the duration of construction-related activities, all new construction workers at the Project site shall attend a Worker Environmental Awareness Program (WEAP), developed and presented by the Project Lead Biologist. The WEAP shall be presented by the Lead Biologist and shall include information on the life history of each federal and state-listed species, as well as other special-status wildlife, natural communities, and plant species that may be encountered during construction-related activities, their legal protections, the definition of “take” under the federal and state endangered species acts, measures the Project operator is implementing to protect special-status species, reporting requirements, specific measures that each worker shall employ to avoid take of special-status wildlife species, and penalties for violation of the Federal Endangered Species Act and California Endangered	Prior to issuance of grading or building permits	Retention of professional biologist Verification of signed acknowledgement form by each worker indicating completion of environmental training	County of Tulare Planning Department			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>Species Act. A fact sheet conveying this information shall be prepared for distribution to contractors, employees, and anyone else who may enter the Project site.</p> <p>WEAP training shall be documented as follows:</p> <p>3.4-3a. An acknowledgement form signed by each worker indicating that environmental training has been completed.</p> <p>3.4-3b. A sticker that shall be placed on hard hats indicating that the worker has completed the environmental training. Construction workers shall not be permitted to operate equipment within the construction area unless they have attended the training and are wearing hard hats with the required sticker.</p> <p>3.4-3c. A copy of the training transcript/training video and/or training video, as well as a list of the names of all personnel who attended the training and copies of the signed acknowledgements forms shall be submitted to the Tulare County Resource Management Agency.</p>						

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>3.4-4. Burrowing Owl. A preconstruction clearance survey for burrowing owls (BUOW) shall be conducted by a qualified biologist no less than 14 days prior to the start of construction-related activities in accordance with the protocols adopted by the CDFW <i>Staff Report on Burrowing Owl Mitigation</i> (2012). If burrowing owls are observed on-site or within 500 feet of the site, the following avoidance and minimization measures shall be implemented:</p> <p>3.4-4.a. A no-disturbance buffer shall be established around occupied burrows. The buffer size may range from 150 feet to 650 feet depending on the time of year and the level of construction-related activity (refer to CDFW 2012).</p> <p>3.4-4.b. A qualified biologist shall monitor the nest to ensure construction-related activities will not adversely impact the nesting birds and determine when the burrow is no longer occupied.</p> <p>3.4-4.c. If construction-related activities cannot avoid the active BUOW nest, CDFW shall be consulted regarding passive eviction and mitigation. If necessary, BUOW may be passively relocated from burrows after an exclusion plan is prepared and approved by the CDFW.</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Retention of professional biologist/ongoing monitoring/submittal of Report of Findings, if applicable.</p>	<p>County of Tulare Planning Department and/or CDFW</p>			
<p>3.4-5. Raptors and Nesting Birds. To avoid impacts to nesting birds, including Swainson's hawk and raptorial species protected by Sections 3503, 3503.5, and 3513 of the CFGC, activities related to the Project (including, but not limited to, vegetation removal, ground disturbance, and construction- and demolition-related activity) shall occur outside of the bird breeding season (February 1 through August 30 for nesting birds; March 1 through September 31 for Swainson's hawk; but variable based on seasonal and annual climatic conditions). Construction-related activity commencing outside</p>	<p>Prior to issuance of grading permits.</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Retention of professional biologist/ongoing monitoring/submittal of Report of Findings, if applicable.</p>	<p>County of Tulare Planning Department</p>			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>of the nesting season does not require any mitigation. If construction-related activities are scheduled to commence during the breeding season, the following mitigation and avoidance measures will be implemented:</p> <p>3.4-5.a. A pre-construction nesting bird survey shall be conducted no more than 14 days prior to initiation of ground disturbance and vegetation removal. The survey shall be conducted within the Project site and include a 150-foot buffer for passerines, 500-foot buffer for other raptors, and 0.5-mile buffer for active Swainson's hawk nests. The survey shall be conducted by a biologist familiar with the identification of avian species known to occur in the region.</p> <p>3.4-5.b. If nests are found, an appropriate avoidance buffer will be determined and demarcated by the biologist with bright orange construction fencing, flagging, construction lathe, or other means to mark the boundary. For Swainson's hawk nests, an avoidance buffer of up to ½ mile shall be established by a qualified biologist based on the nest location in relation to the Project activity, the line-of-sight from the nest to the Project activity, and observed hawk behavior at the nest.</p> <p>3.4-5.c. If this buffer is not feasible, or if the Project intends to reduce the buffers based on the previously listed criteria, consultation with CDFW is warranted to discuss how these criteria will be implemented and determine if the Project will avoid take.</p> <p>3.4-5.d. All construction-related personnel shall be notified as to the existence of the buffer zones and to avoid entering buffer zones during the nesting season. No ground disturbing activities shall occur within the buffer until the avian biologist has confirmed that</p>						

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Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
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<p>breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.</p> <p>3.4-5.e. If take cannot be avoided, take authorization through the issuance of an Incidental Take Permit (ITP), pursuant to Fish and Game Code Section 2081(b) is necessary to comply with the California Endangered Species Act.</p>						
<p>3.4-6. Vernal Pool Fairy Shrimp. To avoid impacts to vernal pool fairy shrimp, the energy generation portions of the Project will be designed and constructed to avoid all mapped potential vernal pool fairy shrimp (VPFS) habitat by 250 feet. Project work that involves rough grading and clearing and grubbing outside of existing roadways and associated right of way, installation of solar arrays and associated facilities, construction staging, and site access, will occur at least 250 feet from potential vernal pool fairy shrimp habitat.</p> <p>3.4-6.a. If vernal pool fairy shrimp habitat cannot be avoided, the applicant shall provide evidence to the Tulare County Resource Management Agency that a Section 2081 ITP from CDFW for vernal pool fairy shrimp (if determined to be required) has been obtained. If it is determined that an ITP is not required, the Project developer/operator shall provide a letter describing the consultation process and wildlife agency determination, indicating that an ITP is not required. The letter shall also identify the CDFW point of contact and contact information.</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Retention of professional biologist/ongoing monitoring/submittal of Report of Findings, if applicable</p> <p>Verification by County of incorporation of project design features</p> <p>Verification of take permit, if applicable</p>	<p>County of Tulare Planning Department and/or CDFW</p>			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
3.4-7. Elderberry Shrubs. The Project will be designed to avoid impacts to all mapped elderberry shrub. Prior to construction-related activities, a qualified biologist will identify and flag all individual elderberry shrubs within the Project site during a pre-construction survey. Temporary plastic mesh-type construction fence will be installed at least 20 feet from the driplines of elderberry shrubs adjacent to the Project site to prevent encroachment by construction-related vehicles and personnel.	Prior to issuance of grading permits Ongoing monitoring during subsurface excavation	Retention of professional biologist/ongoing monitoring/submittal of Report of Findings, if applicable.	County of Tulare Planning Department and/or CDFW			
3.4-8. Jurisdictional Waters. Potentially jurisdictional features should be demarcated with fencing and avoided. If these features cannot be avoided, a jurisdictional wetland delineation shall be conducted to identify and delineate the jurisdictional extent. Permitting by the RWQCB, and/or CDFW may be required, depending on the jurisdictional scope of each feature. Mitigation for fill would be at 1:1 (one (1) acre of mitigation for each acre of impact) at a minimum. Additional mitigation may be required under agency permits.	Prior to issuance of grading permits	Verification by County of incorporation of project design features. Verification of permits, if applicable.	County of Tulare Planning Department, and RWQCB and/or CDFW			
Cultural Resources						
3.5-1. In the event that historical, archaeological or paleontological resources are discovered during site excavation, the County shall require that grading and construction work on the portion of the Project site where the resource is discovered, be immediately suspended until the significance of the features can be determined by a qualified archaeologist or paleontologist. In this event, the specialists shall provide recommendations for measures necessary to protect any site determined to contain or constitute an historical resource, a unique archaeological resource, or a unique paleontological resource or to undertake data recovery, excavation analysis, and curation of archaeological or paleontological materials. County staff shall consider such recommendations and implement them where they are	During construction	Daily or as needed throughout the construction period if suspicious resources are discovered	County of Tulare Planning Department			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
feasible in light of Project design as previously approved by the County.						
<p>3.5-2. Consistent with Section 7050.5 of the California Health and Safety Code and (CEQA Guidelines) Section 15064.5, if human remains of Native American origin are discovered during project construction, it is necessary to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Public Resources Code Sec. 5097). In the event of the accidental [that is, unanticipated] discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:</p> <ol style="list-style-type: none"> 1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: <ol style="list-style-type: none"> a. The Tulare County Coroner/Sheriff must be contacted to determine that no investigation of the cause of death is required; and b. If the coroner determines the remains to be Native American: 	During construction	Daily or as needed throughout the construction period if suspicious resources are discovered	County of Tulare Planning Department			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<ul style="list-style-type: none"> i. The coroner shall contact the Native American Heritage Commission within 24 hours. ii. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American. iii. The most likely descendent may make recommendations to the landowner of the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code section 5097.98, or <p>2. Where the following conclusions occur the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.</p> <ul style="list-style-type: none"> a. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission. b. The descendant fails to make a recommendation; or c. The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner. 						
Public Services						
3.15-1. Applicant shall provide an access road to the site and any facilities affected by the Special Use Permit.	Prior to issuance of building permits	County verification prior to issuance of building permit	County of Tulare			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
			Planning Department			
3.15-2. Applicant shall submit plans for all new construction, and shall comply with the provisions of the 2019 Cal Green Building Code, Fire Code, Mechanical Code, Electric Code and Plumbing Code, as applicable.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Planning Department			
3.15-3. The Tulare County Fire Department shall be notified of the proposed start date of any processing, storage, or special use granted and mitigated prior to initiation of any building operations.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department and Public Works Department			
3.15-4. Violations of any of these conditions shall result in Tulare County Fire Department's rescission of approval of the Special Use Permit.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department			
3.15-5. Fire Department requires a Knox box to be installed at an approved location to permit entry to the site.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department			
3.15-6. Access gate shall be set back 30 feet from the roadway for fire apparatus access.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department, Planning Department, and Public			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
			Works Department			
3.15-7. All combustible vegetation shall be removed from the site and Tulare County Fire Department approved measures taken to prevent the accumulation of the combustible vegetation that would create a fire hazard.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department and Public Works Department			
3.15-8. Access roads shall be provided so that no portions of the photovoltaic panels are more than 500 feet from a fire apparatus access road or spaced in coordination with the Fire Department.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department and Public Works Department			
3.15-9. Access roads shall be a minimum of 20 feet in width (non-obstructed), with a maintained 13 feet 5 inches vertical clearance.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department and Public Works Department			
3.15-10. 20-foot fire access roads shall be constructed so that no portions of the photovoltaic panels are more than 500 feet from a fire apparatus access road or spaced in coordination with the Fire Department.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department and Public Works Department			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
3.15-11. Applicant shall be responsible for training fire personnel of facility operations, hazards and emergency procedures for shutting down the operation.	Prior to issuance of building permits	County verification of personnel training and operation certification prior to occupancy.	County of Tulare Fire Department			
3.15-12. Posted address shall be visible from roadway, minimum 4-inch numbers.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department			
3.15-13. If buildings are proposed, National Fire Protection Agency (NFPA) 1142 standards for rural water supplies shall be required.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department, Planning Department, and Public Works Department			
<i>Tribal Cultural Resources</i>						
Refer to Cultural Resource Mitigation Measures 3.5-1 and 3.5-2.						

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Errata and Affected and Corrected Pages of the EIR

Changes Made in Response to Comments Received

Revisions and clarifications to the DEIR made in response to comments and information received on the DEIR are indicated by strikeout text (e.g. ~~strikeout~~), indicating deletions, and underline text (e.g. underline), indicating additions. Revisions are identified below or, if indicated, are included as attachments to this document.

1. In Response to Department of Transportation, District 6 Office

a. Chapter 3.17 Transportation, Page 3.17-6:

“Caltrans: Transportation Concept Reports

Caltrans has prepared a number of concept reports for State Routes, Interstate Routes, and US Routes for each District. Tulare County is located in Caltrans District 6. The concept report that applies to the proposed Project is the SR 65 Transportation Concept Report (TCR) prepared in June ~~2002~~ 2014. The Project site lies within Segment 5 consisting of 7 miles from the Kern County Line north to Avenue 56 at Ducor. According to the SR 65 TCR, a Caltrans project involving upgrading of this roadway was completed in 2010.

As of the year ~~2002~~2012, Segment 5 of Route 65 is operating at LOS C, primarily at LOS D and LOS E from Bakersfield to Route 198 in Tulare County. Segment 5 had an LOS of D in 2002. According to the SR 65 TCR, the acceptable Concept LOS is C for SR 65. Segment 5 is expected to operate at LOS B with proposed improvements, which will be widened to a 4-lane Expressway by the year 2025. There will be no residual capacity deficiencies. Additional right-of-way will be required on all segments to meet the Ultimate Transportation Corridor (UTC) of a 6-lane Freeway. LOS D in 2020 and LOS B in 2035. The 2035 Concept LOS (target LOS desired) is LOS C. The 20-25 year facility concept for Segment 5 will be to widen the facility to a four lane expressway.

Other Changes and Corrections

1. **Site Plan (Appendix “M” of the Draft EIR):** The site plan has been updated and is included in Attachment 1.

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Attachment 1. Site Plan

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APPENDIX M
SITE PLAN

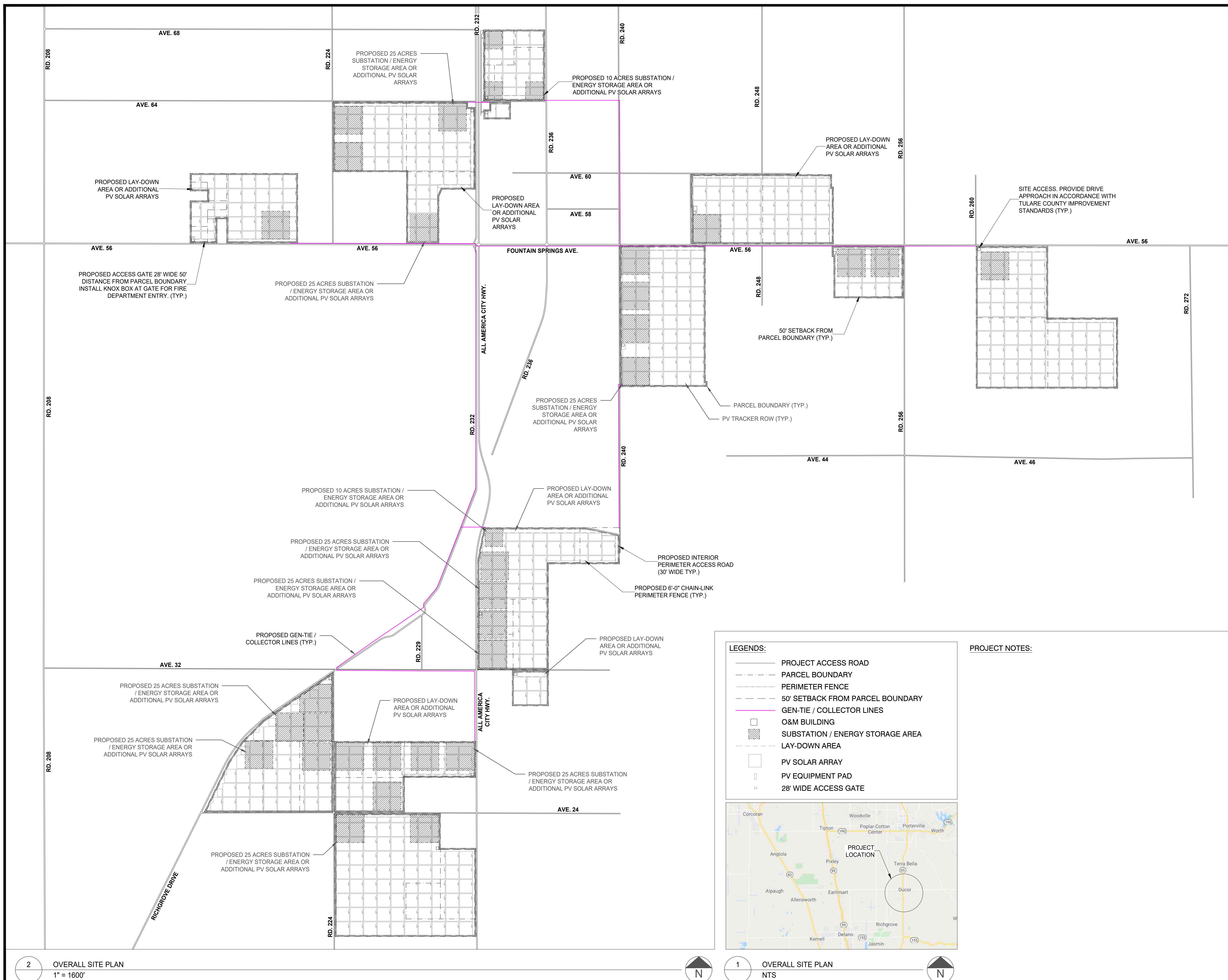


REXFORD SOLAR FARM

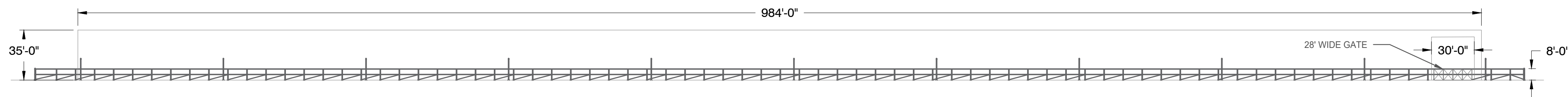
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1	UPDATES	04/22/2020
0	PRELIMINARY	03/12/2020
REV. NO	DESCRIPTION	DATE

SPECIAL USE
PERMIT (SUP) PLAN

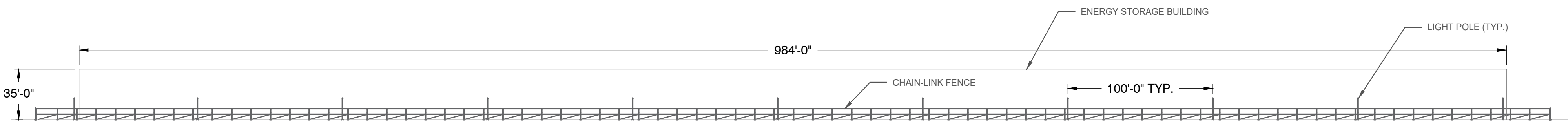
SUP PSP 19-073



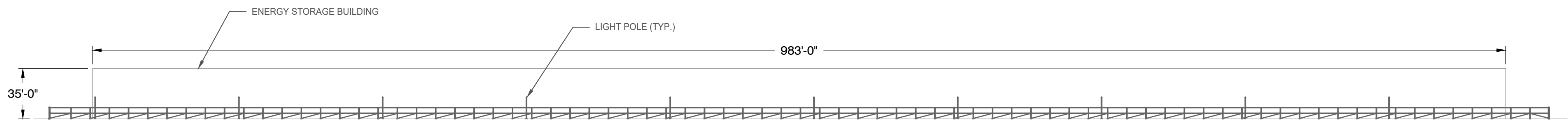
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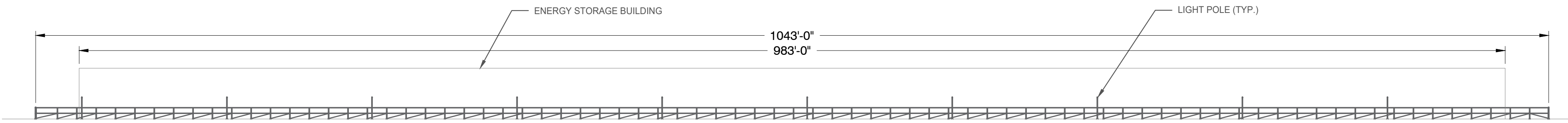
1 ENERGY STORAGE BUILDING - SOUTH WALL
1" = 50'



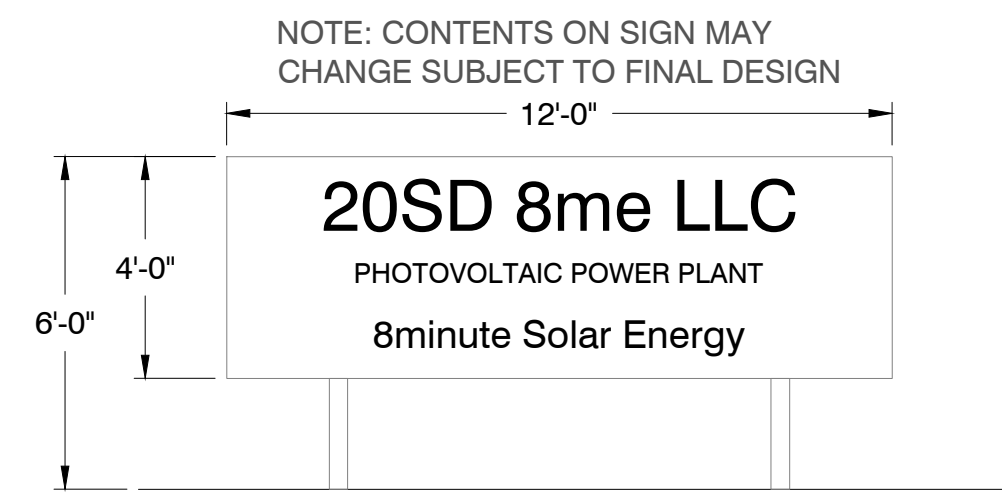
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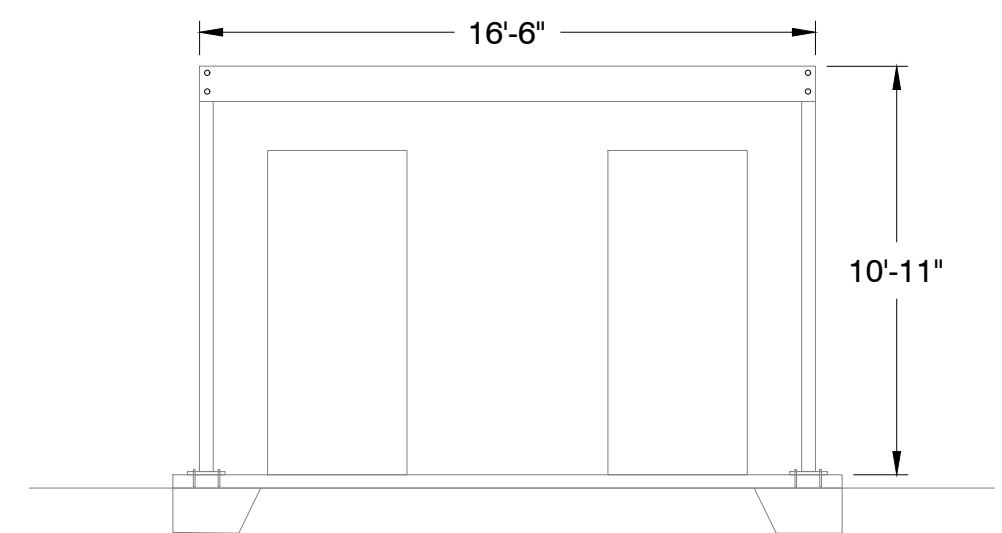
3 ENERGY STORAGE BUILDING - EAST WALL
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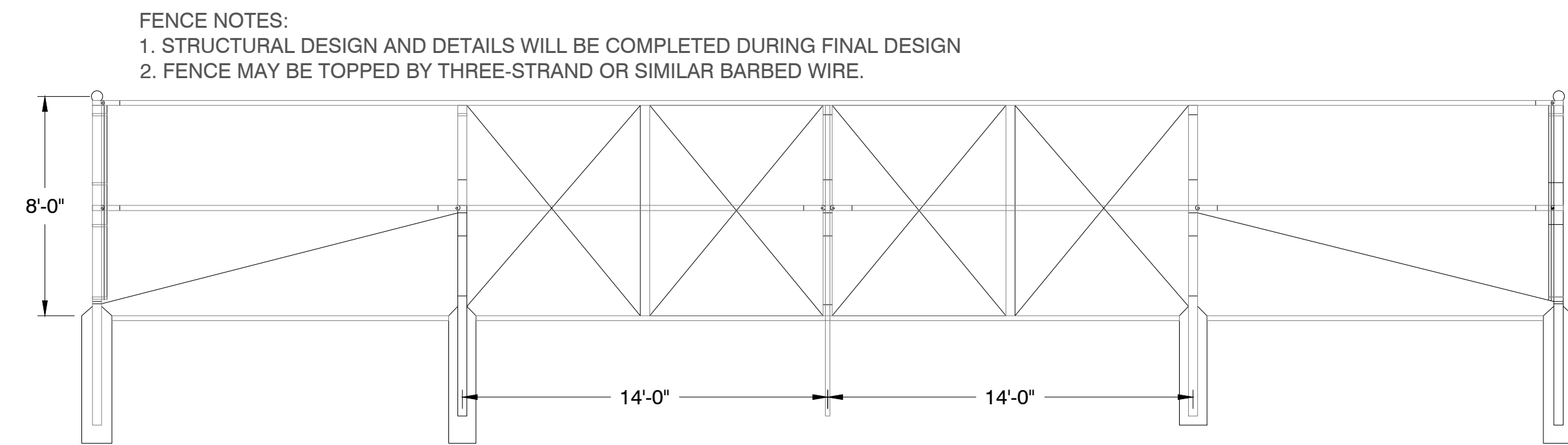
4 ENERGY STORAGE BUILDING - WEST WALL
1" = 50'



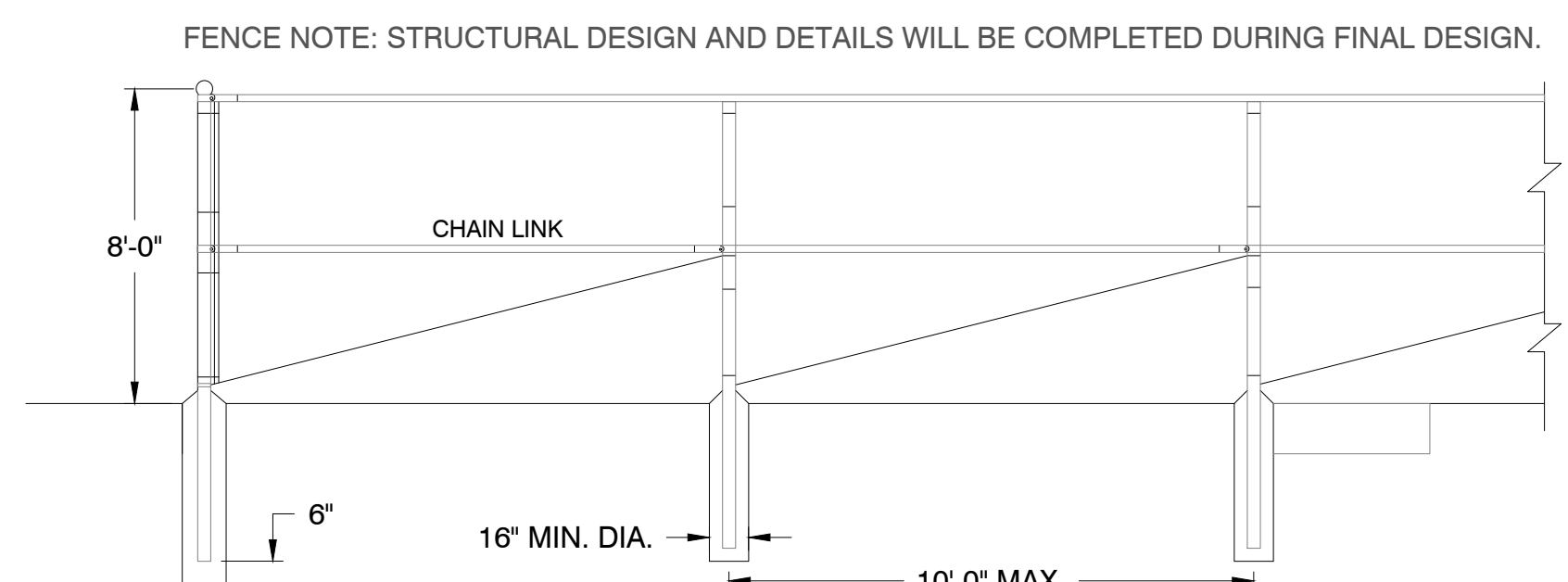
7 ENTRANCE SIGN BOARD
NTS



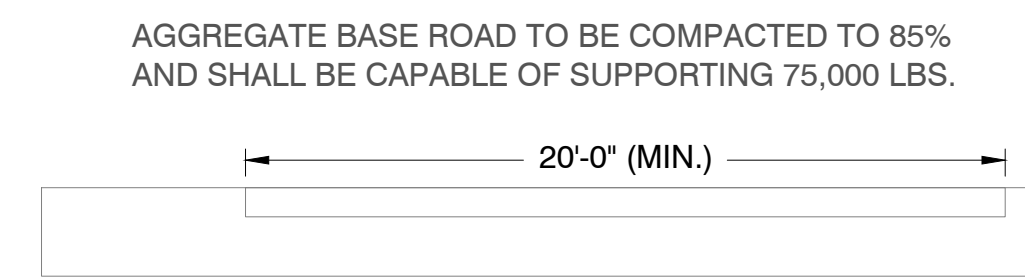
10 INVERTER STATION PAD
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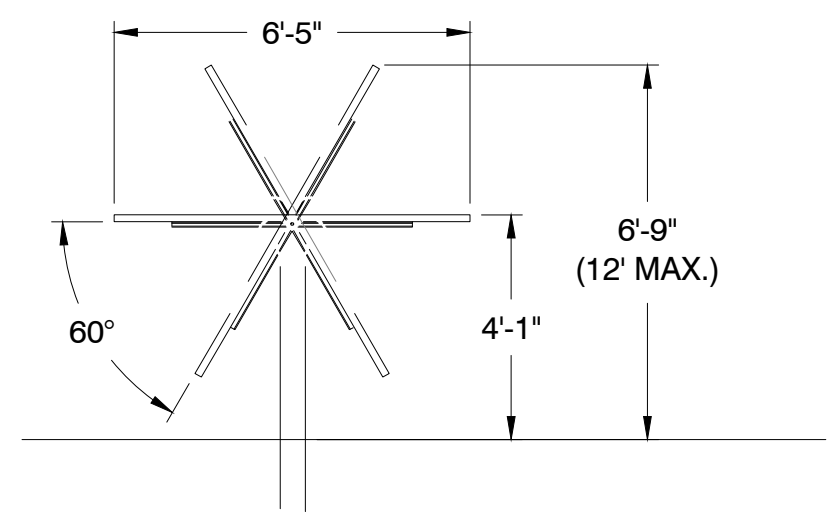
8 28' WIDE SWING GATE
NTS



9 8' SECURITY FENCE
NTS



5 ACCESS ROAD (TYP.)
NTS



6 PV TRACKER ROW
NTS

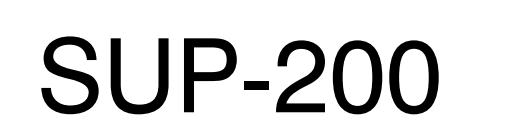


REXFORD SOLAR FARM

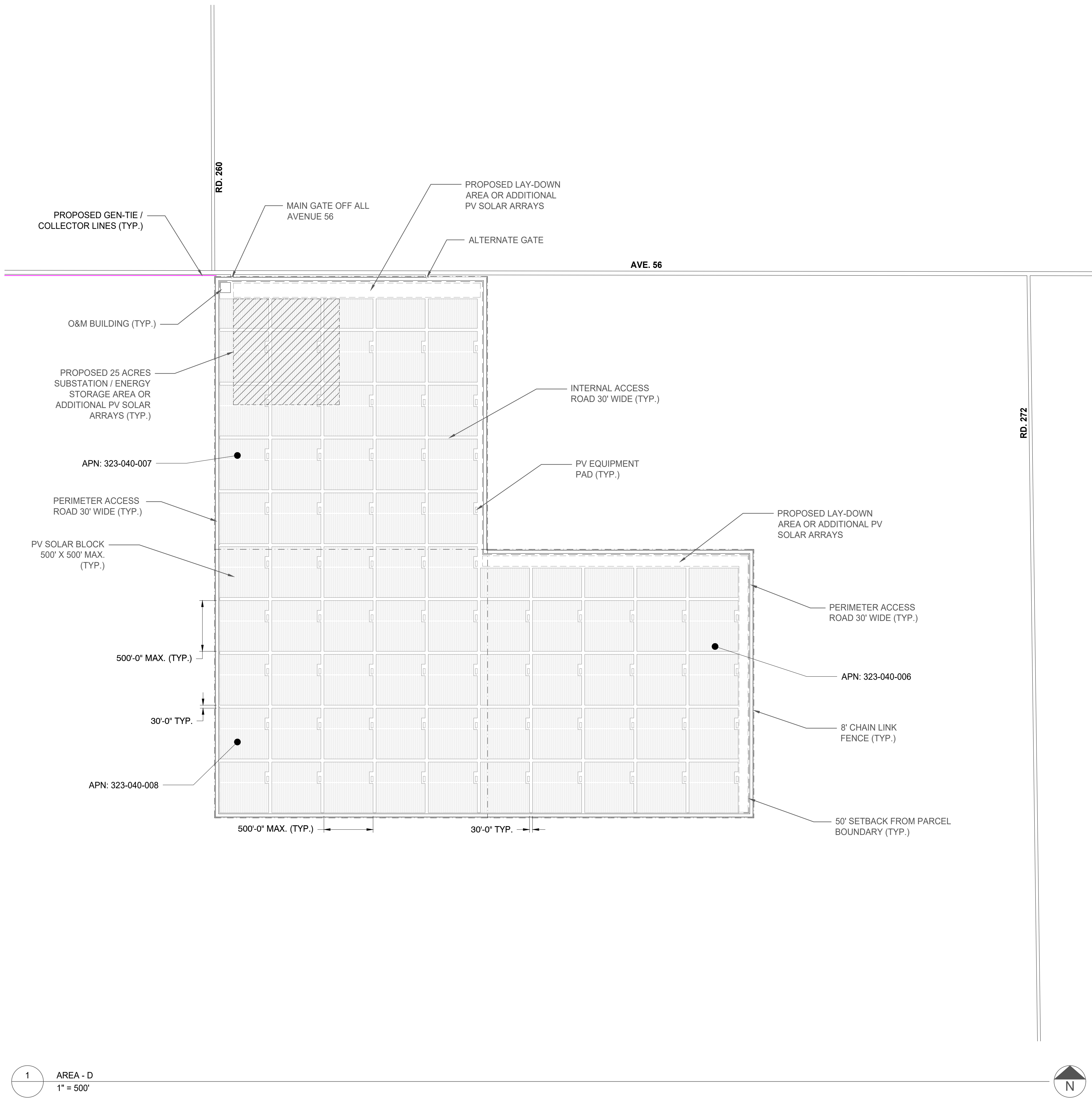
TULARE COUNTY
CALIFORNIA, USA

REV. NO	DESCRIPTION	DATE
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1	UPDATES	04/22/2020
0	PRELIMINARY	03/12/2020

SHEET TITLE:		
ELEVATIONS		
PROJ. MGR.: SS	PROJ. ENGR.: SC	DATE: 02/07/2020
DRAWN BY: BS	CHECKED BY: GB	SCALE: AS SHOWN
DRAWING NO.		
SUP PSP 19-073		



DRAWING NO.



- LEGENDS:**
- PROJECT ACCESS ROAD
 - PARCEL BOUNDARY
 - PERIMETER FENCE
 - 50' SETBACK FROM PARCEL BOUNDARY
 - GEN-TIE / COLLECTOR LINES
 - O&M BUILDING
 - SUBSTATION / ENERGY STORAGE AREA
 - LAY-DOWN AREA
 - PV SOLAR ARRAY
 - PV EQUIPMENT PAD
 - 28' WIDE ACCESS GATE

1400 Shattuck Avenue, Suite 3
Berkeley, California 94709

5455 Wilshire Blvd., Suite 2010
Los Angeles, CA 90036

REXFORD SOLAR FARM

TULARE COUNTY CALIFORNIA, USA

2	UPDATES	07/08/2020
1	UPDATES	04/22/2020
0	PRELIMINARY	03/12/2020
REV. NO	DESCRIPTION	DATE

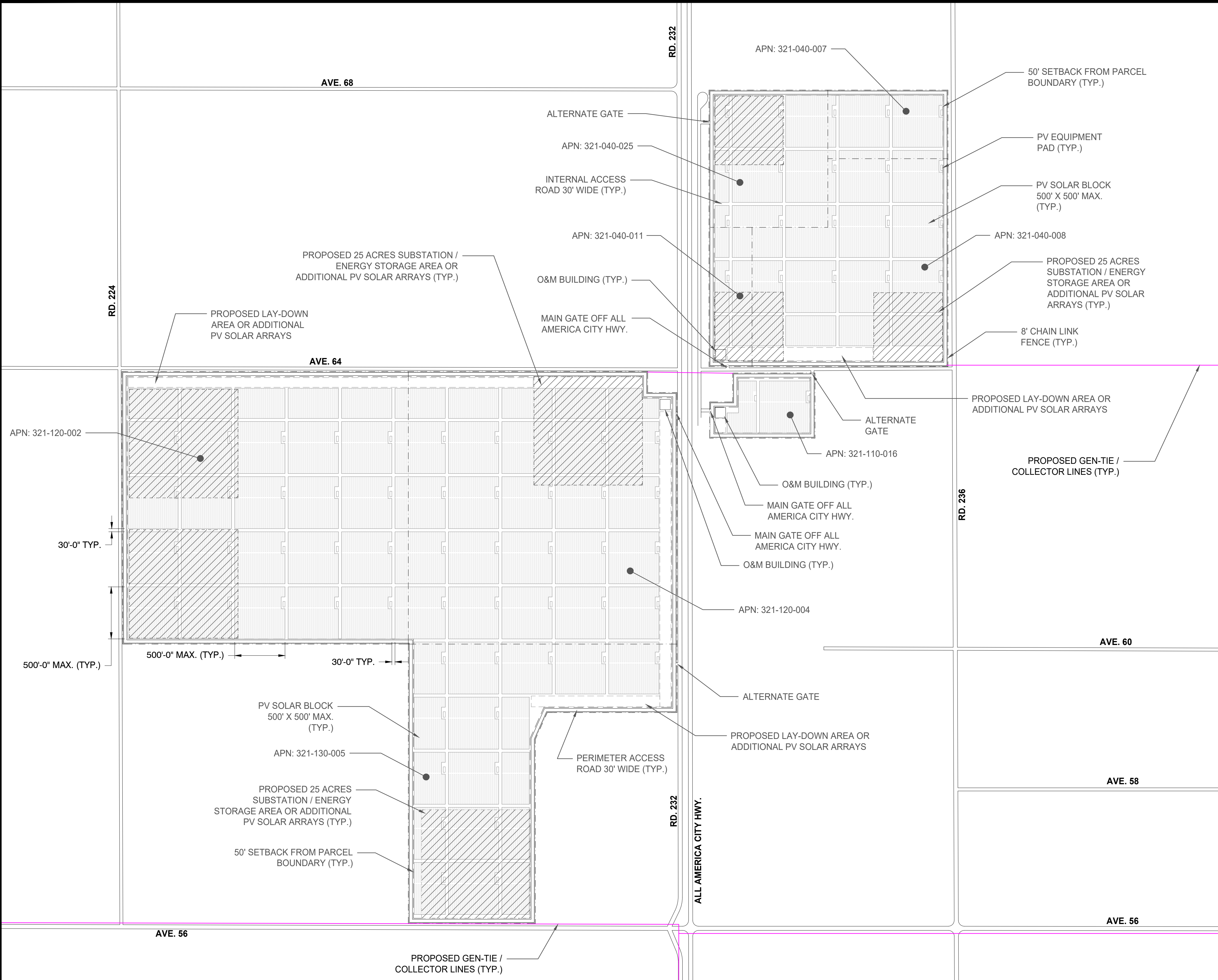
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DRAWN BY: BS	CHECKED BY: GB	SCALE: AS SHOWN

DRAWING NO.

SUP-203



1 AREA - E
1" = 500'



- LEGENDS:**
- PROJECT ACCESS ROAD
 - PARCEL BOUNDARY
 - PERIMETER FENCE
 - 50' SETBACK FROM PARCEL BOUNDARY
 - GEN-TIE / COLLECTOR LINES
 - O&M BUILDING
 - SUBSTATION / ENERGY STORAGE AREA
 - LAY-DOWN AREA
 - PV SOLAR ARRAY
 - PV EQUIPMENT PAD
 - 28' WIDE ACCESS GATE



REXFORD SOLAR FARM

TULARE COUNTY
CALIFORNIA, USA

REV. NO	DESCRIPTION	DATE
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1	UPDATES	04/22/2020
0	PRELIMINARY	03/12/2020

SHEET TITLE:

SPECIAL USE PERMIT (SUP) AREA - E

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DRAWING NO.

SUP-204

SOLVIDA

DESIGN + ENGINEERING

1400 Shattuck Avenue, Suite 3
Berkeley, California 94709

8minute

SOLAR ENERGY

5455 Wilshire Blvd., Suite 2010
Los Angeles, CA 90036

REXFORD SOLAR FARM

TULARE COUNTY CALIFORNIA, USA

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1	UPDATES	04/22/2020
0	PRELIMINARY	03/12/2020
REV. NO	DESCRIPTION	DATE

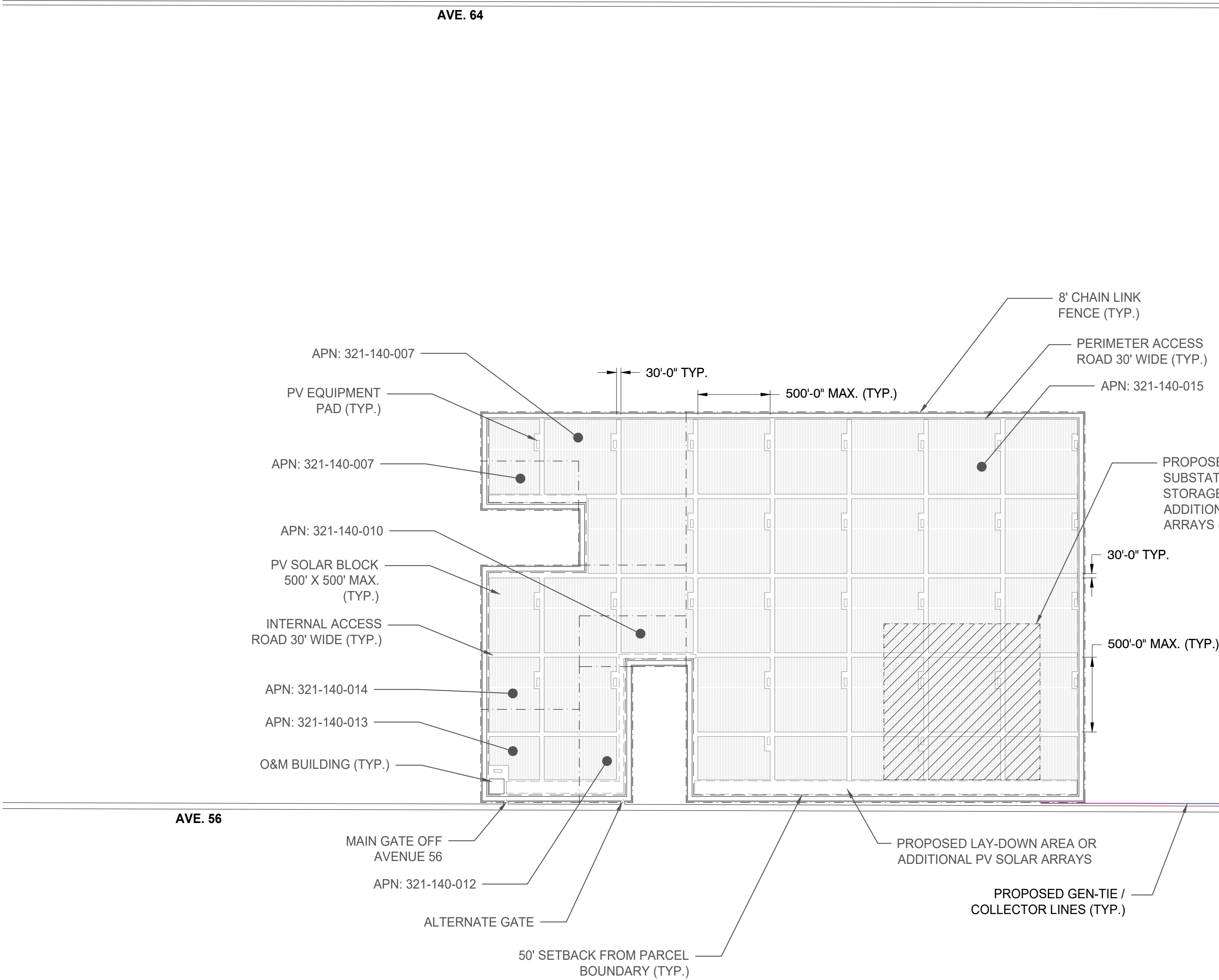
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SPECIAL USE PERMIT (SUP) AREA - F

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DRAWN BY: BS	CHECKED BY: GB	SCALE: AS SHOWN

DRAWING NO.

SUP-205



1

AREA - F

1" = 500'

N

LEGENDS:

PROJECT ACCESS ROAD

PARCEL BOUNDARY

PERIMETER FENCE

50' SETBACK FROM PARCEL BOUNDARY

GEN-TIE / COLLECTOR LINES

O&M BUILDING

SUBSTATION / ENERGY STORAGE AREA

LAY-DOWN AREA

PV SOLAR ARRAY

PV EQUIPMENT PAD

28' WIDE ACCESS GATE