

Appendix 1-2

Notice of Preparation (NOP) and Responses to the NOP



COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Mark J. Hendrickson
Director

Steven Maxey
Deputy Director

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.co.merced.ca.us

Equal Opportunity Employer

NOTICE OF PREPARATION

TO: Agencies, Organizations, and Interested Persons

FROM: Merced County
Community and Economic Development Department
2222 M Street
Merced, CA 95340

CONTACT: Tiffany Ho, Planner III, Community and Economic Development Department

SUBJECT: Notice of Preparation: Draft Environmental Impact Report for the Las Camas Solar Project
(Conditional Use Permit No. CUP 20-011; General Plan Amendment No. 20-001; and Zone
Change Amendment No. ZC 21-002)

PUBLIC REVIEW PERIOD: FRIDAY, AUGUST 13, 2021 – MONDAY, SEPTEMBER 13, 2021

Merced County is the Lead Agency pursuant to the California Environmental Quality Act (CEQA) for the proposed Las Camas Solar Project (proposed project). Merced County will prepare an environmental impact report (EIR) for the proposed project. We need to know the views of agencies, organizations, and interested persons as to the scope and content of the environmental information to be included in the EIR. Agencies should comment only on the environmental resources that are within the agency's statutory responsibilities in connection with the proposed project. Agencies issuing a permit or other approval for the proposed project will need to use the EIR prepared by Merced County.

A public scoping meeting will be held on August 25, 2021, from 1:30 PM to 3:00 PM, via online Zoom Meeting at <https://zoom.us/j/92399154225>.

The project description, location, and the potential environmental effects are contained in the attachment (Attachment 1).

Due to the time limits mandated by State law, your response must be sent at the earliest possible date but **not later than 30 days** after receipt of this notice.

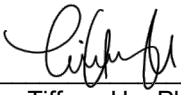
To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, written comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed EIR should be directed to Merced County by 5:00 p.m. on Monday, September 13, 2021. Please send your comments to the attention of Tiffany Ho, at the address shown above. If an organization or agency, please include the name of a contact person so that we have the ability to contact you further during the EIR preparation process.

Project Title: Las Camas Solar Project

Project Location: Merced County Nearest City: Los Banos

Project Applicant: EDP Renewables North America LLC
7900 Conser Street, Suite 10
Overland Park, KS 66204
Contact: David Neely, Project Manager
Contact: Will Talbott, Development Director

Date: 08/13/2021

Signature: 
Tiffany Ho, Planner III

Notice of Preparation Las Camas Solar Project

Attachment 1

Background

Merced County will prepare an environmental impact report (EIR) that addresses the potential impacts of the proposed Las Camas Solar Project west of Los Banos in Merced County (proposed project).

EDPR CA Solar Park III LLC (project applicant) proposes to develop, own, and operate a 200-megawatt (MW) alternating current (AC) ground-mounted solar photovoltaic (PV) power plant located on vacant lands in unincorporated Merced County. The goal of the proposed project is to provide renewable solar energy to be sold to a load serving entity through a power contract, generating electrical power from a clean source that would supplement the energy capacity of the existing power grid, thereby increasing the stability and operability of the transmission system, as well as offsetting supplies from fossil fuel generating sources.

The applicant has filed applications for a Conditional Use Permit (CUP) (CUP Application No. CUP 20-011), General Plan Amendment (General Plan Amendment Application No. 20-001), and Zone Change (Zone Change Application No. ZC 21-002) with Merced County to allow for the construction, operation, and maintenance of the proposed project, which entails the long-term generation of clean renewable energy from solar power. The EIR will provide a project-level analysis of the potential effects on the environment that could occur as a result of the County's approval of the proposed general plan amendment, zone change, and conditional use permit authorizing constructing, operating, and decommissioning the proposed project.

Project Location

The project would be located on roughly 1,745 acres of undeveloped, privately owned land located approximately 3 miles southeast of the community of Santa Nella, California, 6 miles west of the City of Los Banos, and approximately 30 miles southwest of the City of Merced. The project site is at the southwest corner of the intersection of State Route (SR) 33/152 and Interstate 5 and can be accessed via Billy Wright Road off SR 33/152. The project site includes the following Assessor's Parcel Numbers (APNs): 078-160-012, 078-160-013, 078-160-047, 078-160-056, 078-160-060, 078-172-001, 078-190-004, and 078-190-005 (excepting a portion of 078-172-001). A project location map is provided in **Figure 1**. The project site does not include any sites that are included on the lists compiled pursuant to Section 65962.5 of the Government Code.

Existing Environment

The project site is undeveloped and consists predominantly of non-native annual grassland. Elevation on the site ranges from approximately 220 feet above sea level at the lowest point to 558 feet at the highest point. The topography is mostly flat or gently rolling, with an average slope of 4.9 percent. Steeper slopes are clustered near the southwest corner of the site and along a riverine feature in the southern portion of the project site. Three 230-kilovolt (kV) transmission lines and a 69-kV transmission line run north-south through the project site and intersect at the western corner of the project site. Otherwise, the project site has no distinguishing constructed or human-made features. Two underground gas pipelines and corresponding easements cross the eastern portion of the project site.

Approximately 1,713 acres of the project site are classified as Farmland of Local Importance as designated by the State Department of Conservation's Farmland Mapping and Monitoring Program (FMMP). None of the parcels in the project site are under Williamson Act contract. Portions of the project site are used for grazing and dry-land farming.

The project site includes land designated as Urban Communities (approximately 1,184 acres) and Agricultural (approximately 561 acres) under the Merced County General Plan. The Urban Communities designation is associated with the Villages of Laguna San Luis Community Plan and includes the following land use designations within the project site: Very Low-Density Residential (VLD), Low-Density Residential (LD), Medium-Density Residential (MD), High-Density Residential (HD), Neighborhood Commercial (NC), Business Park (BP), Institutional (I), Village Center (VC), Community Park (CP), Village Center Parks (VCP), Open Space (OS), Urban Reserve (UR), and Agricultural (A). The project site is predominantly zoned for Single-Family Residential (R-1-5000) and Multi-Family Residential (R-3) use. Other zoning designations on the project site include higher-density Multi-Family Residential (R-4), Neighborhood Commercial (C-1), General Commercial (C-2), Light Manufacturing (M-1), General Agriculture (A-1), Exclusive Agricultural (A-2), Highway Interchange Center (H-I-C), and Rural Residential (R-R).

The surrounding area is rural in character. There is a residential subdivision, recreational vehicle (RV) park, commercial area, and power substation at the junction of SR 152 and SR 33 north of the project site. The San Luis Reservoir State Recreation Area is located further west. The lands immediately east of I-5 support orchards, grazing, and dry farming, as well as the aqueducts of the Central Valley Project (CVP). Farther east, irrigated agriculture is the primary land use. The community of Santa Nella, to the north, and the City of Los Banos, to the east, are several miles from the proposed project site.

Proposed Project Description

The proposed project includes the construction, long-term operation, and eventual decommissioning of the Las Camas Solar Project west of Los Banos in Merced County. The project is a solar photovoltaic (PV) facility that will generate electricity from ground-mounted, single axis tracking arrays and intermittently store electricity by charging and discharging lithium-ion batteries. The project will have a solar PV capacity of approximately 200 megawatts.

(MW) alternating current (AC) and a battery storage capacity of approximately 100 MW direct current (DC) or AC (both options are under consideration and will be evaluated in the EIR). The project will also include a 230 kV transmission line running from a new substation within the project site to Pacific Gas and Electric's (PG&E's) Los Banos Substation located west of the project site. The generation tie (gen-tie) line will convey electricity between the project site and the larger grid. The length of the gen-tie line would range from 0.25-mile to 2 miles, depending on the location of the project substation, which will either be located along the western boundary of the project site or in the interior of the project site. The project also proposes transmission system upgrades around the Los Banos substation, including connecting the substation to the project's gen-tie line, installing a new bay with new circuit breakers, and constructing a new control building. The proposed project is anticipated to be operational in October 2024 and is expected to operate for 35 years.

Project Components

A proposed site plan is included in **Figure 2**. As shown, the project will consist of the following components:

- Solar PV panels: The project proposes to construct 440-watt and 550-watt bi-facial solar PV modules.
- Single-axis trackers: Single-axis trackers on steel supports are proposed to mount the solar PV panels approximately 5 feet off the ground.
- Collection wires and electrical inverters: DC electricity generated from the PV panels would run along DC collection lines attached to the single-axis tracker arrays to electrical inverters. The inverters would convert the DC electricity to AC and discharge the electricity to underground AC collection lines for conveyance to the project substation.
- Lithium-ion batteries: Two battery system configurations are under consideration: a DC-coupled system and an AC-coupled system.
 - DC-coupled system – Under this system, lithium-ion batteries that store DC electricity would be distributed throughout the solar arrays and would share the solar collection wires and electrical converters.
 - AC-coupled system – Under this system, lithium-ion batteries that store AC electricity would be constructed at the project substation and would share the project substation and project transmission line.
- Battery enclosures: The lithium-ion batteries (in either a DC-coupled or AC-coupled system) would be housed on racks in 8-foot by 50-foot enclosures that are temperature-controlled and equipped with fire suppression and electrical control systems.
- Project substation: All AC electrical output would be aggregated at the project substation, where high-voltage interconnection equipment would step the energy up to a higher voltage level and connect it to the project transmission line. Two locations for the project substation are under consideration; one along the western boundary of the project site (as shown in **Figure 2**) and one centrally located within the interior of the project site.
- 230kV project transmission (gen-tie) line: The gen-tie line would convey all electricity from the project site to the larger grid at the Los Banos substation, located west of the project site. The length of the gen-tie line would range from 0.25-mile to two miles, depending on the location of the project substation described above.

- Internal access roads: Aggregate-surfaced access roads would be installed around and between the solar arrays to allow for maintenance and facilitate the movement of emergency vehicles, if necessary, as shown in **Figure 2**.
- Security gates, fencing, and lighting: The project site would be secured with a perimeter fence, and a second perimeter fence with lighting would secure the project substation. Low-level security and wayfinding lighting would also be installed at the control building within the project substation, and at the Operations and Maintenance (O&M) building. Gated, secured entry points would be provided. Low-level security and wayfinding lights would also be installed at the project gates; these would be shielded and directed downwards to minimize light impacts to nearby properties. Where applicable, fencing will be designed to adhere to Merced County screening and landscaping requirements and standards.
- Operations and Maintenance (O&M) building: The proposed project would include construction of an approximately 1,200-square foot O&M building with an attached 1,400 square foot storage warehouse in the western portion of the project site. This facility is expected to be staffed with up to 8 full-time employees responsible for maintenance and other activities related to ongoing operations. These employees would generally be on-site during normal business hours, unless otherwise required. The O&M building would include an aggregate parking lot with approximately seven spaces. Parking and access would be provided in accordance with the Americans with Disabilities Act (ADA) and Section 18.38.040 (Off-Street Parking Regulations and Design Standards) of the Merced County Code. Sewage from the building would be pumped into a buried septic tank near the building. Water needs for the O&M building would be served either by connecting to the adjacent San Luis Water District potable water system that serves the residential subdivision, requiring the construction of off-site water infrastructure, or by constructing a new on-site water well.
- Supervisory Control and Data Acquisition (SCADA) system: This system would be installed to provide plant visibility and control of the solar field and all components of the electrical system to the plant and grid operators. Physically, the system would be installed with a series of fiber communication lines connecting points (i.e., an item to be monitored) of the electrical system to the control room of the substation, where the fiber would be terminated at servers of the operating system. Fiber is also run from all the high and medium voltage components that require monitoring, such as the breakers within the substation.
- Wildlife movement corridors: The project design includes 23 acres of movement corridors for the San Joaquin kit fox within existing gas pipeline setbacks (two 1.25-mile corridors, each 150-foot wide), as shown in **Figure 2**. The movement corridors are designed to facilitate wildlife passage through the project site. The project also includes a no-build corridor with an area of approximately 8 acres (70-foot-wide and 1-mile-long) along a riverine feature in the southeastern corner of the project site to facilitate wildlife passage through the project site.

The project's operational water demand would include water used for solar panel washing, the O&M building, and limited irrigation. The project would provide an on-site water supply (e.g., storage tank) for fire flow and fire suppression in accordance with Section 507.1 of the California Fire Code.

Off-Site Mitigation Lands

The project applicant is preparing a Habitat Conservation Plan (HCP) to support an application to the U.S. Fish and Wildlife Service (USFWS) for an incidental take permit (ITP) under the federal Endangered Species Act (ESA), and an ITP Application to the California Department of Fish and Wildlife (CDFW) for an ITP under the California Endangered Species Act (CESA), for San Joaquin kit fox (*Vulpes macrotis mutica*). The HCP will be subject to separate environmental review under the National Environmental Policy Act (NEPA). The HCP being prepared for the project will include a conservation strategy to mitigate for impacts to the San Joaquin kit fox. The conservation strategy will include the establishment of an off-site mitigation site. The 1,498-acre mitigation site, shown in **Figure 1**, is situated close to the eastern and southern edges of the Los Banos Reservoir. The mitigation site would be placed into a conservation easement in perpetuity and the land managed to provide habitat for the San Joaquin kit fox. Because creation of the mitigation site is required to implement the project, the potential environmental effects of this action will be evaluated in the EIR.

Vehicular Access

Vehicular access to the project site during construction and operation would be provided via a new access point at Billy Wright Road where it abuts the eastern portion of the project site. This access point would be reached by taking Highway 152 west out of Los Banos and turning left onto Billy Wright Road, or by exiting I-5 onto Highway 152 and turning right onto Billy Wright Road.

Construction

Construction of the proposed project is expected to take approximately 12 to 14 months. Most construction activities would occur between 7:00 AM and 6:00 PM, in accordance with Section 10.60.040 (Specific Prohibited Acts) of the Merced County Code, although low noise-generating activities could occur after 6:00 PM if permitted noise levels are not exceeded. Construction would include the following phases and activities, some of which would overlap:

- **Project Site Preparation (approximately 6 months):** During this phase, the project site would be cleared and graded where necessary to prepare for construction. An on-site staging area would be cleared, graded, and compacted to be used for construction parking, delivery, and storage. Internal access roads would be cleared, graded, moisture conditioned, compacted, and surfaced with crushed aggregate where necessary to allow construction crews to move across the site. Additional grading and compaction would take place as necessary for the installation of solar PV systems, battery storage systems, the O&M building, and the project substation. The chain-link perimeter fences would also be installed to secure the project site and minimize the visual impacts of construction. Fence posts would be drilled or driven into the ground.
- **Underground Work (approximately 10 months):** During this phase, excavators and chain trenchers would be used to dig trenches for underground collection cables. The cables would be laid deep enough to adhere to any Federal, State, and local requirements. The

trenches would likely be 18-24 inches wide and will be backfilled using the excavated soil.

- PV System Installation (approximately 10 months): During this phase, pile drivers would be used to pneumatically drive the steel piles that would serve as the supports for the solar PV racking system. The racking system would be assembled and installed as specified by the manufacturer, and trucks, forklifts, and small crane would be used to transport and install solar PV trackers, panels, and inverters. The solar PV inverters would be installed on either concrete or metal skid foundations, depending on manufacturer specifications.
- Battery Storage System Installation (approximately 7 months): During this phase, forklifts, a backhoe, and a small crane would be used to construct the battery system enclosures and install the battery racks, cabling, and inverters.
- Substation and Gen-Tie Line Installation and Los Banos Substation Improvements (approximately 7 months): During this phase, a lowboy trailer may be used to deliver the main substation transformer. The project substation and gen-tie line to the Los Banos substation would be constructed using forklifts, pickup trucks, a line truck, and a boom truck with bucket. The proposed improvements at PG&E's Los Banos Substation would also be constructed at this time.
- O&M Building Construction (approximately 7 months): During this phase, the O&M building would be constructed using standard building construction equipment. New water pipelines would be installed to connect the O&M building to either a new on-site well or the adjacent San Luis Water District potable water system. A septic tank would also be installed on-site to serve the O&M building.
- Testing and Commissioning (approximately 1 month): During this phase, the project applicant would work with the County, PG&E, the construction contractors, and other involved agencies or entities to test and commission the solar PV system, battery storage system, electricity transmission systems, and other installations on the project site.
- Site Restoration (approximately 1 month): During this phase, excess equipment and materials would be removed from the project site. A grader and drill seeder would be used to re-vegetate the site outside of the fire breaks and access roads.

Water would be used during construction for road maintenance, dust suppression, soil conditioning, and other uses as needed. Daily requirements would vary based on construction activity and weather conditions. Daily usage is expected to be highest near the beginning of construction as access roads are built and grading occurs, then decrease as soil compaction occurs and site vegetation returns to provide natural dust suppression. Water for construction would be purchased under contract and transported to the project site by water trucks. Portable toilets and sinks would provide sanitation needs for construction workers.

Decommissioning/Reclamation

Decommissioning and site reclamation would begin immediately after the 35-year lifespan of the proposed project. The process is expected to require 12 months and would include the following phases and activities:

- **Removal of Above-Grade Equipment:** During this phase, above-grade equipment installed on concrete pads, solar PV modules, solar racking systems, lithium-ion batteries, battery enclosures, and other equipment would be removed from the project site. All electrical equipment would be fully deenergized prior to removal, and all external electrical lines running into or out of the project site would be decommissioned using industry best practices and procedures.
- **Removal of Below-Grade Foundations and Infrastructure:** During this phase, piles and solar racking equipment would be vertically extracted and removed from the project site.
- **Site Grading:** During this phase, all project roads, access roads, and parking areas would be removed unless retained for other purposes following decommissioning. If the underlying soil exhibits significant compaction, it would be disked to aerate the soil and allow it to return to its prior condition. If necessary, fresh topsoil would be spread over the area before being leveled to match the existing grade.
- **Revegetation:** During the reclamation process, the project site would be returned to its condition prior to the construction of the proposed project. As necessary, fresh topsoil would be spread over the project site to ensure suitable conditions for revegetation to follow. Once this has been completed, an appropriate mix of rangeland seeds would be spread or sown into the soil as specified by local authorities.

Proposed General Plan Amendment (GPA) and Rezoning

Construction and operation of utility-scale solar facilities or high-voltage electrical infrastructure is not allowed in some of the zoning designations applied to portions of the project site. Additionally, the project site falls within the General Plan's "Urban Communities" land use designation as part of the Villages of Laguna San Luis Community Plan (Community Plan), and the Community Plan designates the project site for various residential, commercial, and parkland uses. The project proposes to amend the Merced County General Plan and Community Plan to create a "Utility-Scale Solar Overlay Zone" and associated zone change covering the project site that allows the following as conditional uses:

- "Energy Generation Facilities (off-site energy use)" as currently allowed by Conditional Use Permit in all Agricultural Zones;
- "Communication Equipment, Electrical Distribution/Transmission, Substation" as currently allowed by Conditional Use Permit in all Agricultural Zones;
- "Public Utility Facilities," as currently allowed by Conditional Use Permit in Rural Residential Zones; and
- Additional ancillary buildings, fencing, roads, and equipment.

The project also proposes to amend the General Plan to re-designate roughly 242 acres off-site and immediately south of the project site from single-family residential to high-density/medium-density residential. These 242 acres are referred to as the "off-site residential redesignation area." This change would preserve the supply of medium-density and/or high-density units that could be developed in the County during the life of the project. The off-site residential redesignation area is shown in **Figure 1** and **Figure 3**.

The proposed General Plan Amendment will include a sunset date of 40 years after the approval date of the amendment and overlay zone. This will allow the project to be constructed, operated for its full 35-year lifespan, and responsibly decommissioned before the project site is returned to a physical state and zoning designation appropriate for real estate development. Any potential repower of the project would have to be sought via extension of the overlay zone and other applicable permits from Merced County, discretionary actions that would require CEQA compliance. Similarly, the change in the allowed density for the off-site residential redesignation area would also sunset at the same time, and the land use designations and zoning for that area would revert to those that currently exist.

The EIR will evaluate the potential environmental impacts that could result from the proposed General Plan and Community Plan amendments, the proposed Zoning Ordinance text amendment, and the proposed rezoning.

CEQA Actions and Project Approvals

Prior to approving the proposed project, the County is required to undertake CEQA review including:

- Certification of the EIR – Certification that the EIR adequately identifies any significant environmental effects of the proposed project, pursuant to CEQA and the CEQA Guidelines; and
- Mitigation Monitoring Plan – Adoption of a Mitigation Monitoring Plan to reflect the measures required to mitigate significant impacts, if any, of the project.

The EIR is intended to provide the CEQA documentation for approval of the project and related General Plan amendments.

The following discretionary actions and approvals of regulatory agencies may be necessary for the proposed project.

- Merced County General Plan and Community Plan Amendments and associated zone change to create an overlay zone on the project site and redesignate the approximately 242-acre off-site residential redesignation area from single-family residential to high-density/medium-density residential for the life of the project
- Merced County Conditional Use Permit
- Merced County Solar Benefits Agreement
- California Endangered Species Act (CESA) Incidental Take Permit
- Federal Endangered Species Act (ESA) Incidental Take Permit
- National Pollutant Discharge Elimination System Construction General Permit (Notice of Intent)
- California Department of Transportation Right-of-Way Encroachment Permit, and Permit for Transportation of Oversized Loads
- Section 851 Permit or Notice of Construction from the California Public Utilities Commission

- San Joaquin Air Pollution Control District Authority to Construct/Permit to operate
- Rights-of-way crossing consent forms from Merced County
- Local Agency Formation Commission (LAFCo) of Merced County approval to annex a portion of the project site into the San Luis Water District service territory if the project connects to the District's off-site water system

Scope of the EIR

As provided in the CEQA Guidelines (Section 15021), public agencies are charged with the duty to avoid or minimize environmental damage where feasible. In discharging this duty, the public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social. In reviewing the preliminary information provided for the proposed project, the County has analyzed the potential environmental impacts of the proposed project described in this NOP and has determined that preparation of an EIR is required.

The Las Camas Solar Project EIR will address the short- and long-term environmental impacts of the proposed project. The public agency is required to consider the information in the EIR, along with any other relevant information included in the public record, in making its decision on the project (Section 15121 of the CEQA Guidelines).

The full range of environmental issues will be addressed in the EIR, including:

- **Aesthetics**, including adverse effect on a scenic vista, degradation of scenic resources, degradation of the existing visual quality of the area, and/or light or glare that could affect day and nighttime views;
- **Agriculture and Forestry Resources**, including loss or conversion of farmland to non-agricultural uses;
- **Air Quality and Greenhouse Gas Emissions**, including emissions of air pollutants and greenhouse gases during construction and operation, and odors;
- **Biological Resources**, including adverse effects on special status species, riparian habitat, other sensitive habitats, and/or federally-protected wetlands, interference with the movement of any native resident or migratory fish or wildlife, and/or conflicts with local policies and/or conservation plans;
- **Cultural Resources and Tribal Cultural Resources**, including adverse changes in the significance of historical or archaeological resources, and/or disturbance of human remains;
- **Energy**, including project's energy usage from all applicable sources;
- **Geology and Soils, and Paleontological Resources**, including exposure of people or structures to the risk of loss, injury or death from seismic-related effects, soils constraints and/or landslides, soil erosion or the loss of topsoil, and/or issues related to septic tanks; and disturbance of paleontological resources;
- **Hazards and Hazardous Materials**, including hazards to the public or environment due to the routine transport, use or disposal of hazardous materials, or release of hazardous materials, emission or handling of hazardous materials within one-quarter mile of a school, development on a site included on a list of hazardous materials sites (e.g., Cortese List), interference with an adopted emergency response or evacuation plan, and/or exposure to

risk of injury or loss from wildfire;

- **Hydrology and Water Quality**, including violation of water quality standards or waste discharge requirements, interference with groundwater recharge, alteration of existing drainage patterns, generation of runoff that exceeds the capacity of existing or planned drainage facilities, placement of housing in the 100-year floodplain, impediments to flood flows, loss, injury or death due to flooding and/or inundation by seiche, tsunami or mudflow;
- **Land Use and Planning**, including physical division of established communities and consistency with adopted plans;
- **Mineral Resources**, including the loss of availability of known mineral resources and/or locally-important mineral resources;
- **Noise**, including noise from construction, traffic, and other operational noise sources;
- **Population and Housing**, including direct and indirect unplanned population growth;
- **Public Services and Recreation**, including on the need to construct new public service and recreation facilities to maintain acceptable service rations, and physical deterioration of existing parks and recreational facilities;
- **Transportation and Traffic**, including conflicts with plans or policies related to circulation, transit, roadways, bicycle, or pedestrian facilities, conflict with CEQA Guidelines Section 15064.3(b), increased hazards due to design features or incompatible uses, and/or inadequate emergency access;
- **Utilities and Service Systems**, including construction or relocation of public utility facilities, water supply, wastewater treatment capacity, and conflict with solid waste reduction goals and regulations;
- **Wildfire**, including evaluation of whether the project would impair implementation of any emergency response or emergency evacuation plan; expose future residents to pollutant concentrations from wildfires; result in new infrastructure that will exacerbate fire risk; and expose people to risk of flooding and landslides as a result of post-fire run off.

The issues to be addressed in the EIR will be finalized after comments on the NOP are received.

Comments Requested

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, written comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed EIR should be directed to the name and address below by 5:00 p.m. on Monday, September 13, 2021.

Tiffany Ho, Planner III
Merced County
Community and Economic Development Department
2222 M Street
Merced, CA 95340
(209) 385-7654 ext. 4407

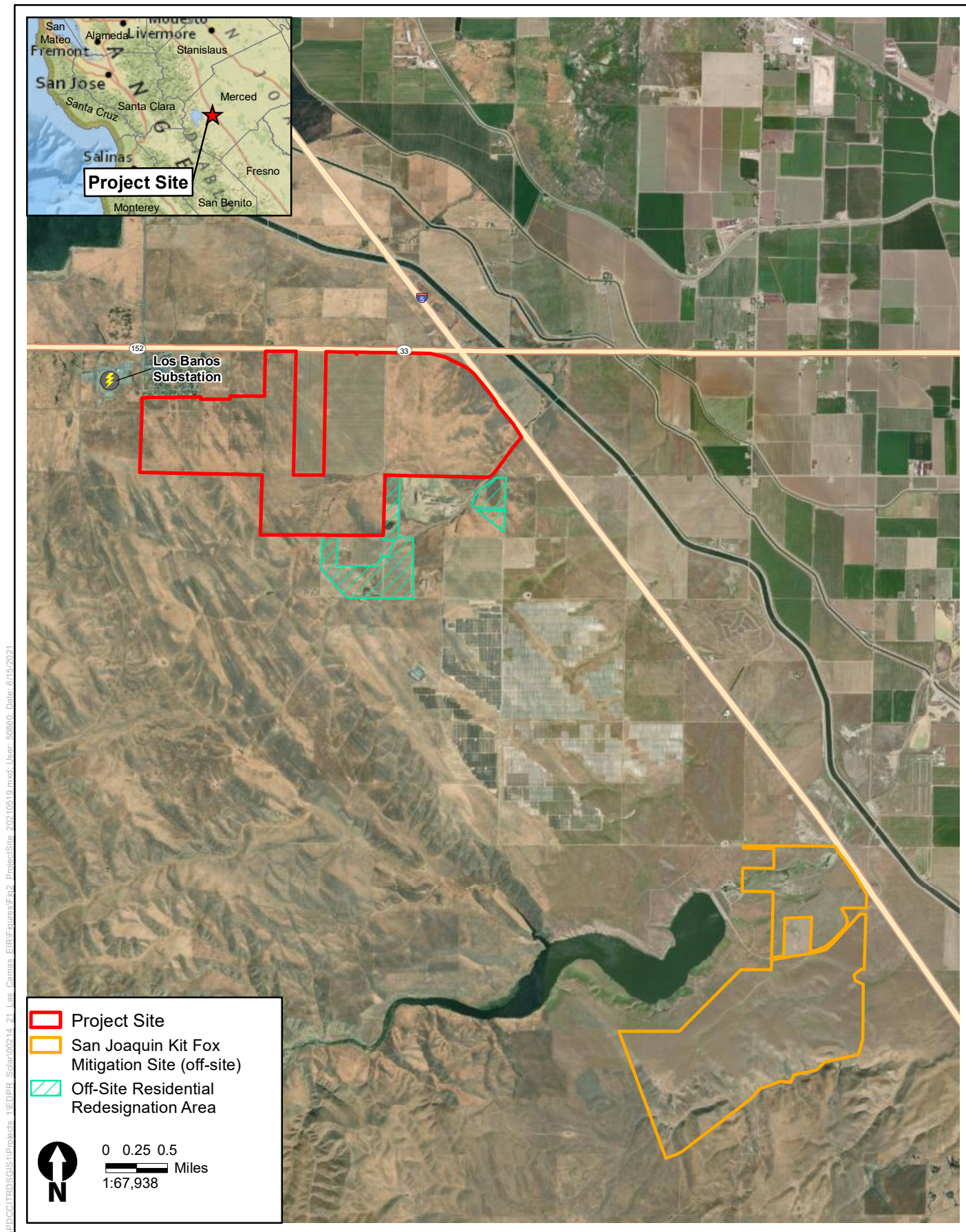


Figure 1
Project Location Map
 Las Camas Solar Project - Merced County, California

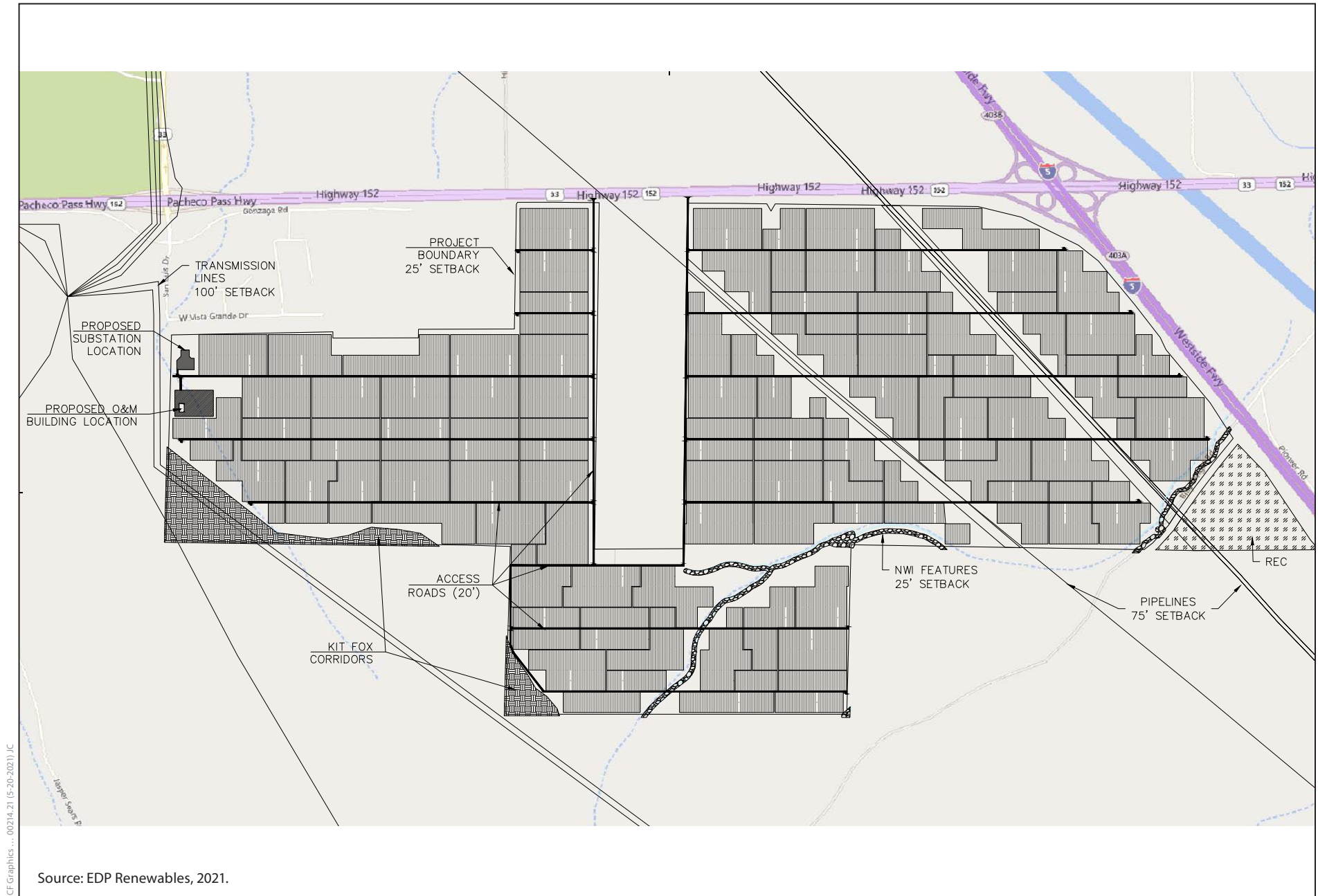


Figure 2
Proposed Site Plan
 Las Camas Solar Project - Merced County, California

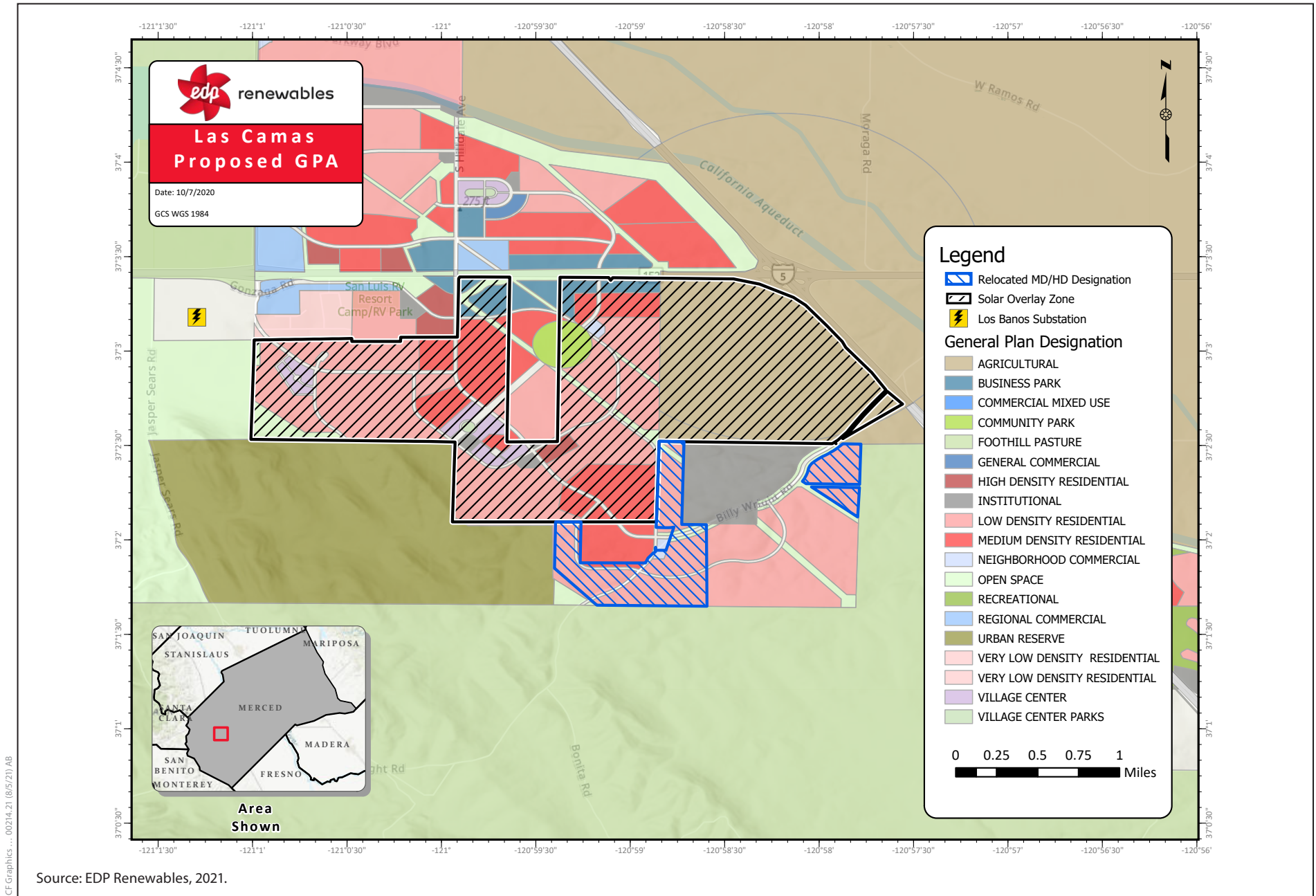


Figure 3
Proposed General Plan Amendment
Las Camas Solar Project - Merced County, California



NATIVE AMERICAN HERITAGE COMMISSION

August 12, 2021

Tiffany Ho, Planner III
Merced County, Community and Economic Development Department
2222 M Street, 2nd Floor
Merced, CA 95340

Re: 2021080196, Las Camas Solar Project, Merced County

Dear Ms. Ho:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

CHAIRPERSON
Laura Miranda
Luiseño

VICE CHAIRPERSON
Reginald Pagaling
Chumash

SECRETARY
Merri Lopez-Keifer
Luiseño

PARLIAMENTARIAN
Russell Attebery
Karuk

COMMISSIONER
William Mungary
Paiute/White Mountain
Apache

COMMISSIONER
Julie Tumamait-Stenslie
Chumash

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

EXECUTIVE SECRETARY
Christina Snider
Pomo

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
 - Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalePAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:
Katy.Sanchez@nahc.ca.gov.

Sincerely,



Katy Sanchez
Associate Environmental Planner

cc: State Clearinghouse

From: Ho, Tiffany

Sent: Thursday, August 19, 2021 2:46 PM

To: 'Lambright, Margaret' <Margaret.Lambright@icf.com>; Mekkelson, Heidi <Heidi.Mekkelson@icf.com>

Cc: Cousineau, Patrick <PATRICK.COUSINEAU@EDPR.COM>; Neely, David <david.neely@edpr.com>; 'Salmon, Hannah' <HANNAH.SALMON@EDPR.COM>

Subject: Las Camas Solar Project Comments and Responses

Hello All,

Received two calls yesterday (8/18):

- Gerald Bartholomew, adjacent property owner (APN 078-190-009 & 078-190-010)
 - Concerns about glare and aesthetics – **noted**
 - Concerned property is within redesignation area and how it would affect potential for future subdivision – **addressed; it is not within the area**
 - Wanted to know if project will allow his property to connect to public water – **addressed; facilities will not be readily available for him to connect to public ater**
 - Will be talking with other adjacent property owners about the project and will direct concerns and questions to me
- Joe Giulian, Supervising Engineer, County Roads Division (Public Works)
 - Any work within road or right-of-way will require an encroachment permit
 - Requesting implementation of dusk control measures nearby I-5 and 152
 - Requesting truck traffic projection for road impact fee (which will require a Road Impact Agreement)

One Call today (8/19)

- Steve Stadler, District Engineer, San Luis Water District
 - Will be sending a formal letter within the response period
 - Indicated there are facilities on-site that are not identified in the site plan and may require accommodations/revisions to plan
 - Indicated the District has its own process to determine feasibility for connection for District's M&I water (water supply plan)

Best,

Tiffany Ho
Planner III
Merced County Community and
Economic Development Department

phone 209 - 385 - 7654 x4407
email tiffany.ho@countyofmerced.com

2222 M Street, 2nd Floor
Merced, CA 95340

www.countyofmerced.com/planning
www.facebook.com/MercedCountyCED

Bill Diedrich
President

Mike Wood
Vice President

Mitch Coit
Tax Assessor/Collector



Tom Teixeira
Secretary/Treasurer

Jon E. Maring
Director

Lon Martin
General Manager

August 24, 2021

Ms. Tiffany Ho
Community & Economic Development Department
County of Merced
2222 M Street
Merced, CA 95340

Subject: Notice of Preparation: Draft Environmental Impact Report for the Las Camas Solar Project (Conditional Use Permit No. CUP-20-011; General Plan Amendment No. 20-001; and Zone Change Amendment No. ZC 21-002)

Dear Ms. Ho:

The San Luis Water District ("SLWD") is pleased to provide comment on the scope and content of the environmental information to be included in the Environmental Impact Report ("EIR").

1. The section entitled Existing Environment included in the Notice of Preparation ("NOP") fails to identify SLWD pipelines, water delivery turnouts, electrical cables, telemetry cables, and other SLWD facilities and their corresponding easements that cross the project site. These SLWD facilities should be included when discussing and evaluating the existing environment.
2. Figure 2, Proposed Site Plan, included in the NOP does not show SLWD pipelines, water delivery turnouts, electrical cables, telemetry cables, and other SLWD facilities and their corresponding easements that cross the project site. These facilities should be shown on the map. Access and avoidance of these facilities should be incorporated into the project design (as was done with the two underground gas pipelines and their corresponding easements). Because this may significantly alter the design of the project, a revised site plan should be prepared prior to an evaluation of the environmental impacts.
3. The Proposed Project Description included in the NOP identifies an Operations and Maintenance (O&M) building as one of the project components and states that the water needs for the O&M building would either be served either by connecting to the adjacent San Luis Water District potable water system that serves the residential subdivision, requiring the construction of off-site water infrastructure, or by constructing a new on-site water well. Due to constraints on the SLWD potable system and groundwater wells, the

EIR should address the possibility that the O&M building will require potable water transported to the building from off-site sources on a temporary or permanent basis.

4. SLWD has adopted policies on water supply requirements for municipal and industrial development which are intended to ensure that a proposed M&I development has an adequate and reliable water supply while avoiding adverse impact to other SLWD stakeholders. The adopted policies require, amongst other requirements, the preparation of a detailed water supply plan. SLWD will not approve nor provide water service to any development project unless the project proponents have secured a supply of water which SLWD, in its sole and absolute discretion, considers to be adequate to meet the water demands of the entire development. To date, the project applicant has not requested SLWD for water service, has not quantified project water demands, and has not prepared a detailed water supply plan. In order to properly evaluate the project, the project water demands should be quantified, and a detailed water supply plan should be developed and included with the EIR. The demand quantification and the detailed water supply plan should address solar project uses, medium- and high-density development uses, and uses related to the proposed San Joaquin kit fox habitat area. Furthermore, the EIR should address the alternatives that do not involve SLWD potable water service in the event that SLWD does not provide water service to the development project.
5. The San Luis Hills water system, referred to in the NOP as the San Luis Water District potable water system, serves fifty-nine (59) residential and six (6) commercial connections in the San Luis Hills subdivision. The only source of water for the San Luis Hills water system is raw or untreated surface water delivered from the Central Valley Project through SLWD facilities owned and operated by SLWD. SLWD receives an agricultural allocation and a municipal and industrial (M&I) allocation from the Central Valley Project. The San Luis Hills water system relies on a portion of the SLWD M&I allocation for its raw water supply to its surface water treatment plant.

The Central Valley Project ("CVP") water supply has been has become unreliable over the past three decades. In recent years, the reliability has dropped further due to additional environmental and water quality restrictions placed on the Central Valley Project. Further restrictions have been enacted by the State Water Resources Control Board and additional decreases in allocations are expected in the coming years as these restrictions are imposed.

When agricultural allocations fall below 75% of contracted amounts, the U.S. Bureau of Reclamation will reduce M&I allocations below contracted amounts and base allocations on a percentage of historical usage. This year, the CVP agricultural allocation is 0%, meaning that no deliveries would be provided to agricultural users, and the M&I allocation is 25% of historical usage or an assigned minimum amount needed to meet public health and safety requirements.

When the M&I allocation is based on historical amounts, no provisions are made for new demands and the water to supply new demands is taken from customers with existing demands. During the past eight years, 2014 through 2021, there have only been two years when the M&I customers have received their contracted amount, 2017 and 2019. There have been six years the M&I allocation has been reduced and two years when the allocation has been reduced to 25% of historical usage, 2015 and 2021.

The current and foreseeable water supply conditions place existing M&I customers at risk of not obtaining the minimum amount of water to meet their health and safety requirements. Any new connection will further exacerbate the current inadequate supply necessary to meet the minimum health and safety water needs for the existing community. Accordingly, the ability of a project to comply with the District's current M&I development policies and obtain approval for a new connection from the District is highly unlikely.

6. The parcels on which the project is sited will not be eligible to receive an agricultural water allocation from the District because the proposed use as a solar farm is not an agricultural use. The District will require that the applicant assign the agricultural water allocation for the project parcels to the District for the life of the solar project. Subject to approval of the District's Board of Directors, the applicant will be relieved of assessments related to agricultural water service upon the assignment.
7. The EIR should not rely on the use of groundwater to serve the project unless it has been clearly demonstrated that groundwater is available at the site and the use of groundwater will not create significant impacts upon other groundwater users. Groundwater is not available in a substantial portion of SLWD due to the nature of the geology near the foothills (i.e. a lack of water-bearing strata) or the poor quality of groundwater within the strata. One of the reasons for the formation of SLWD was to serve lands that had no groundwater readily available. It has been SLWD's experience that wells in the San Luis Hills area, when attempted, have had insufficient or poor production of water and have a relatively short service life.

8. The project proposes to amend the General Plan to re-designate approximately 242 acres off-site and immediately south of the project site from single-family residential to high-density/medium density residential in order to preserve the supply of medium-density and/or high-density units that could be developed in the County during the life of the project. The EIR should evaluate the water supply needs of the proposed medium- and high-density development can be met under existing and future hydrological conditions. The EIR should also evaluate whether the existing single-family residential use is appropriate under existing and future hydrological conditions. Future hydrological conditions would consider existing conditions and future impacts on the Central Valley Project water supply caused by recent State Water Resources Control Board adoption of the Bay-Delta Water Quality Control Plan and imposition of stream flow requirements on tributaries to the San Joaquin and Sacramento Rivers.
9. The project proposes to create a 1,498-acre mitigation site situated close to the eastern and southern edges of the Los Banos Creek Reservoir. The mitigation site would be placed into a conservation easement in perpetuity and the land managed to provide habitat for the San Joaquin kit fox. The potential environmental effects of this action on SLWD and its existing and future facilities should be evaluated in the EIR.

Thank you for the opportunity to provide comment on the Las Camas Solar Project NOP. The above comments are provided for the scoping effort based on the information provided in the NOP and our limited understanding of the project. SLWD may have additional comments on the review areas addressed above or other environmental review areas as our understanding of the project broadens.

If you have any questions or wish to discuss this matter further, please do not hesitate to contact me by phone at (209) 826-4043 (option 7) or by e-mail at sstadler@slwd.net.

Sincerely,



Steven Stadler, P.E.
District Engineer

Las Camas EIR Public Scoping Meeting

August 25, 2021

1:30pm-3:00pm

Attendance

- Merced County: Tiffany Ho, Planner
- EDP Renewal (Project proponent): David Neely, Patrick Cousineau, Hannah Salmon
- ICF/Environmental Consultants: Heidi Mekkelson, Margaret Lambright
- Agencies and individuals:
 - Nicholas Carrieri
 - Gerald Bartholomew
 - Steve Stadler – District Engineer, San Luis Water District
 - Eric Zetz - Director, Merced County Regional Waste Management Authority

Presentation – Tiffany Ho, Heidi Mekkelson

- Welcome and Meeting Purpose
- How to Participate
- Project Team Introduction
- CEQA Review Process
- Project Overview
- Public Scoping Comments
- Next Steps

Verbal comments provided during meeting

- Eric Zetz: Merced County Regional Waste Management Authority manages multiple waste management facilities, including two landfills within project area. Las Camas is a large project using large solar panels. The area landfills do not accept hazardous waste; Mr. Zetz asked if/how the analysis will consider disposal of the panels, which are considered hazardous materials.

He added that the DTSC is currently awaiting EPA approval, as these products are also subject to federal law and regulation.

- DTSC Solar Panel Regulations

Background: SB 489 authorized DTSC to adopt regulations to designate used/spent solar panels that are hazardous wastes as universal waste. Until the new regulations are adopted, those solar panels must be managed as hazardous wastes (more stringent requirements).

- Status: Formal draft regulations were released in 2019. Text of the proposed regulation is posted at <https://dtsc.ca.gov/photovoltaic-modules-pv-modules-universal-waste-management-regulations/>.

- Steve Sadler: SLWD has submitted written comments to the County. He emphasized the point that the water system in San Luis Hills is severely impacted by the regional water shortage, and Central Valley Project reliability has degraded as a result of drought conditions. The District requests that EIR takes a hard look at water supply impacts.

Mailing List Sign Ups

- sstadler@slwd.net

- lmartin@slwd.net
- mvaz@slwd.net
- Gerald Bartholomew - tmbartholomew@yahoo.com

UC Cooperative Extension Merced County

1 Sept 2021

To: Tiffany Ho, Community & Economic Development Department

From: Maxwell Norton, Farm Advisor Emeritus
UC Cooperative Extension

Re: Request for comments on Las Camas Solar Project (CUP 20-011)

To minimize negative effects on agricultural production in the area the following conditions should be met:

Dust control measures are taken during construction and during operation so they do not cause mite problems on down-wind crops.

Squirrel, gopher and other pest populations on the property are fully controlled year-round so they do not become a pest to nearby agricultural operations.

Fugitive surface water is not allowed to run onto adjacent farms and interfere with operations.

If this is truly a temporary installation:

A deed restriction can be placed on the parcel to assure it is returned to production agriculture after the solar operation is no longer profitable. A bond can be required to assure that the site will be cleaned up and returned to agricultural production when the solar operation is no longer profitable.

If this installation is “permanent”:

The lost of productive soils for farming purposes can be mitigated by purchasing agricultural conservation easements elsewhere in the county.

Javier Ramirez

28665 W Vista Grande Dr
Santa Nella CA 95322

09/07/2021

Re: Las Camas Solar Project

Dear Merced County Board of Supervisors:

My name is Javier Ramirez and I am a property owner in Merced County as well as a business owner. Recently, you were presented with a plan for review concerning a solar project titled Las Camas. This project is being led by EDP renewable America north. Although I am in full support of ways for cleaner renewable energy and the benefits they bring, I ask you to please consider the homeowners whose line of sight you will impact, our property values you will affect, our comfort level with such close proximity to this technology and our general quality of life.

The area where these solar panels will be installed have homeowners who, like I, have invested greatly into making our property values increase, bettering our own community and purchased these homes specifically for the mountain views to escape the drudge of Urban/City life. If you review the presented map closely, there are areas of very close proximity, behind the proposed current area, that would still allow for this project to take place, but keep the panels away from the line of sight of our homes and therefore not having a direct affect on our property values, comfort and current emotional and financial investment we've made to our homes and lives.

I am speaking for our entire community, I believe, and would be happy to collect signatures from the affected land/homeowners in the area if you so desire and need. We don't aim to halt or slow down progress; we simply hope you consider the long term residents of your county before making decisions that will greatly affect our everyday life and potentially our long term financial investment.

My home is directly facing the proposed area, I have met with engineers and contractors for much of the work currently being done to my home. Id be happy to meet with EDP Renewable America North or any of your Board of Supervisors, at the area to indicate the other zones that might still work for the continuation of this project that won't affect our homes and livelihood.

I hope you take all these point under consideration before making a vote that directly impacts our life. We are here to talk about this, come to a mutual

compromise that benefits us all and allows for this project to continue under better circumstances for all.

Please don't hesitate to contact me with any questions you should have on this matter. My Phone number is 408- 966-4312. I appreciate your time and attention.

Sincerely,

Javier Ramirez

AVISO DE CONFIDENCIALIDADE:

Esta mensagem e os ficheiros em anexo podem conter informação confidencial e/ou privilegiada, que não deverá ser divulgada, copiada, gravada ou distribuída, nos termos da lei vigente.

Se recebeu esta mensagem por engano, pedimos que não divulgue nem faça uso desta informação. Agradecemos que avise o remetente da mesma, por correio eletrónico, e apague este e-mail do seu sistema.

CONFIDENTIALITY NOTICE:

This message and the attached files may contain confidential and/or privileged information, which should not be disclosed, copied, saved or distributed, under the terms of current legislation.

If you have received this message in error, we ask that you do not disclose or use this information. Please notify the sender of this error, by email, and delete this message from your device.

AVISO DE CONFIDENCIALIDAD:

Este mensaje y los archivos adjuntos pueden contener información confidencial y/o privilegiada, que no deberá ser divulgada, copiada, guardada o distribuida de acuerdo al cumplimiento de la ley vigente.

Si ha recibido este mensaje por error, le pedimos que no divulgue o haga uso de esta información. Le agradecemos que notifique el error al remitente enviándole un correo electrónico y elimine este email de su dispositivo.

From: Mike Chen <hmikechen@gmail.com>
Sent: Saturday, September 11, 2021 5:28 PM
To: Ho, Tiffany <Tiffany.Ho@countyofmerced.com>
Cc: chao wu <chaowu13@gmail.com>; David Sha <david_sha@yahoo.com>
Subject: Las Camas Solar project

Dear Tiffany,

thank you for sending the notice to us, we are the property owners of parcel # 78-330-15 (adjacent to the RV park), the current use of the land is a vacant land.

we have some questions :

1. since the proposed area has many pump stations and water pipes for irrigation, we would like to know if the Solar Developer will abandon the pump stations and pipes? how do we obtain the water if we need the water for future use (either for agriculture or other use)?
2. will they still be responsible for water assessment after the Solar Project been developed?
3. will they have access from Hilldale? or do they have more access plans near our property area?
4. will they build the fence at property lines?

sincerely,

Mike Chen,
12280 Saratoga Sunnyvale Rd,
suite 209,
Saratoga, CA 95070



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 13, 2021

Tiffany Ho, Planner III
County of Merced, Department of Community and Economic Development
2222 M Street
Merced, California 95340
Tiffany.Ho@countyofmerced.com

Subject: Las Camas Solar Project (Project)
Notice of Preparation (NOP)
State Clearinghouse No. 2021080196

Dear Ms. Ho:

The California Department of Fish and Wildlife (CDFW) received a NOP from the Merced County Department of Community and Economic Development for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public

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

Tiffany Ho, Planner III
Merced County Department of Community and Economic Development
September 13, 2021
Page 2

agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

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

PROJECT DESCRIPTION SUMMARY

Proponent: EDP Renewables North America LLC

Objective: The Project proposes the construction, long-term operation, and eventual decommissioning of the Las Camas Solar Project west of Los Banos in Merced County. The Project is a solar photovoltaic (PV) facility that will generate electricity from ground-mounted, single axis tracking arrays and intermittently store electricity by charging and discharging lithium-ion batteries located on roughly 1,745 acres of undeveloped, privately owned land. The Project will have a solar PV capacity of approximately 200 megawatts (MW) alternating current and a battery storage capacity of approximately 100 MV direct current or alternating current. The Project will also include a 230-kilovolt transmission line running from a new substation within the Project site to Pacific Gas and Electric's Los Banos Substation located west of the Project site. The generation tie (gen-tie) line will convey electricity between the Project site and the larger grid. The length of the gen-tie line would range from 0.25 to 2 miles, depending on the location of the Project substation, which would either be located along the western boundary of the Project site or in the interior of the Project site. The Project also proposes transmission system upgrades around the Los Banos substation, including connecting the substation to the Project's gen-tie line, installing a new bay with new circuit breakers, and constructing a new control building.

Tiffany Ho, Planner III
 Merced County Department of Community and Economic Development
 September 13, 2021
 Page 3

Location: The Project site is located approximately 3 miles southeast of the community of Santa Nella, 6 miles west of the City of Los Banos, and approximately 30 miles southwest of the City of Merced. The Project site is at the southwest corner of the intersection of State Routes 33/152 and Interstate 5 and can be accessed via Billy Wright Road off State Route 33/152. The Project site includes the following Assessor's Parcel Numbers: 078-160-012, 078-160-013, 078-160-047, 078-160-056, 078-160-060, 078-172-001, 078-190-004, and 078-190-005 (excepting a portion of 078-172-001).

Timeframe: The proposed Project is anticipated to be operational in October 2024 and is expected to operate for 35 years.

COMMENTS AND RECOMMENDATIONS

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

The Environmental Impact Report (EIR) that will be prepared will determine the likely environmental impacts associated with the Project. CDFW is concerned regarding potential impacts to special-status species from the ground-disturbing development activities, including but not limited to, the fully protected and State and federally endangered blunt-nosed leopard lizard (*Gambelia sila*), the State and federally endangered giant kangaroo rat (*Dipodomys ingens*), the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State threatened San Joaquin antelope squirrel (*Ammospermophilus nelson*) and Swainson's hawk (*Buteo swainsoni*), the State Candidate Species for listing mountain lion (*Puma concolor*) (Southern California/Central Coast Evolutionarily Significant Units), State species of special concern burrowing owl (*Athene cunicularia*) and tule elk (*Cervus canadensis nannodes*) and the rare and endemic Crotch bumble bee (*Bombus crotchii*), a Species of Greatest Conservation Need (CDFW 2015). Based on the limited information provided in the NOP, CDFW is not able to provide complete and/or substantive comments. Our preliminary comments follow.

San Joaquin Kit Fox (SJKF)

The area from around Los Banos Reservoir to the north of San Luis Reservoir has been identified by CDFW and the United States Fish and Wildlife Service (USFWS) as a migratory corridor critical to the continued existence and genetic diversity of the northern kit fox population – with the Santa Nella area being identified as a critical SJKF migratory “pinch-point” within this area. The creation of the San Luis Reservoir and O'Neil Forebay resulted in a large migratory barrier to the north-south migration of

Tiffany Ho, Planner III
Merced County Department of Community and Economic Development
September 13, 2021
Page 4

SJKF, and busy highways in the area such as State Routes 152 and 33 and Interstate 5, as well as the existing urban development further compounded this problem (HT Harvey and Associates 2004). As a result, any upland habitat in this area that could serve as movement or rest areas for SJKF has very high conservation values for this species.

Because the Project site is within the San Luis Reservoir and Los Banos Reservoir migratory corridor, and that the CNDDDB has multiple SJKF occurrences in the adjacent properties (CDFW 2021), SJKF have the potential to occur on the Project site. SJKF populations are known to fluctuate over years and a negative finding from biological surveys in any one year does not necessarily depict absence of kit fox on a site. It is important to note that SJKF may be attracted to any construction area due to the type and level of activity (pipes, excavation, etc.) and the loose, friable soils that are created as a result of intensive ground disturbance.

The NOP states the Project will pursue an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081(b), for SJKF. CDFW recommends the EIR quantify and describe the direct and indirect potential impacts to SJKF. The evaluation should include the cumulative impacts to SJKF, including those to the SJKF movement corridor, from other existing, planned and potential development from south of the Los Banos Reservoir to north of the San Luis Reservoir that may impact existing upland habitat and/or create barriers for SJKF dispersal. This information, in addition to adequate description of habitat features on the Project site, is essential to adequately assess Project impacts.

The NOP also states the Project will establish a 1,498-acre mitigation site as part of a conservation strategy to mitigate impacts to SJKF. The proposed mitigation site is situated close to the eastern and southern edges of the Los Banos Reservoir. The proposed mitigation site will be conserved with a perpetual conservation easement and the land managed to provide optimum habitat for SJKF. Please note that while the proposed mitigation site appears to provide suitable SJKF habitat based on aerial photography, the proposed mitigation location or acreage amount may not adequately mitigate impacts to the SJKF movement corridor or reduce impacts to SJKF habitat to less than significant. CDFW cannot make a determination about the adequacy of the mitigation site until we have reviewed the impact analysis for this Project, and a preliminary title report and associated documents for the proposed mitigation site.

CDFW typically requires greater than 1:1 mitigation in ITPs to fully mitigate permanent impacts to SJKF habitat, especially for permanent impacts to moderate to high quality SJKF habitat; areas in critical areas of connectivity often require enhanced mitigation amounts and the addition of specific elements. However, given the information provided to date, CDFW cannot make a final determination at this time about the adequacy of the proposed mitigation site to fully mitigate Project-related impacts.

Tiffany Ho, Planner III
Merced County Department of Community and Economic Development
September 13, 2021
Page 5

CDFW can make this determination once an ITP application has been received by CDFW and Habitat Management (HM) Lands process has been completed on the proposed mitigation site.

Swainson's Hawk (SWHA)

SWHA exhibit high nest-site fidelity year after year in the San Joaquin Valley (CDFW 2016). The Project as proposed will involve noise, groundwork, and movement of workers that could affect nests and has the potential to result in nest abandonment, significantly impacting local nesting SWHA. Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include nest abandonment, and reduced nesting success (loss or reduced health or vigor of eggs or young) from loss of foraging habitat.

SWHA has been documented approximately one mile from the Project site (CDFW 2021). The Project is located within the range of SWHA and proposes development in suitable foraging habitat. CDFW recommends compensation for the loss of Swainson's hawk foraging habitat as described in the Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report:

- For projects within 1 mile of an active nest tree, a minimum of one acre of habitat management (HM) land for each acre of development is advised.
- For projects within 5 miles of an active nest but greater than 1 mile, a minimum of 0.75 acres of HM land for each acre of development is advised.
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of 0.5 acres of HM land for each acre of development is advised.

There are a few suitable nesting trees within and adjacent to the Project site, and SWHA are known to travel for miles to forage. Therefore, CDFW recommends surveys following the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000) be conducted prior to project implementation. CDFW recommends a minimum no-disturbance buffer of 0.5-mile be delineated around active nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. If an active SWHA nest is detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the issuance of an ITP, pursuant to Fish and Game Code § 2081(b) is necessary to comply with CESA.

Tiffany Ho, Planner III
Merced County Department of Community and Economic Development
September 13, 2021
Page 6

Other Wildlife Species

CDFW recommends the EIR evaluate potential impacts to blunt-nosed leopard lizard (BNLL), burrowing owl, California tiger salamander (CTS), Crotch bumble bee, giant kangaroo rat (GKR), mountain lion, San Joaquin antelope squirrel, and tule elk. CDFW recommends this evaluation include identifying any potential habitat in the Project area, the potential for these species to occur in the Project area, and what, if any, mitigation measures are necessary to reduce impacts to less to significant. For mountain lion and tule elk in particular, CDFW advises any evaluation include cumulative impacts and impacts to connectivity.

Please note that if suitable habitat is present and species surveys are warranted, some protocols require specific seasons and/or an extended period of time (e.g., BNLL, CTS). Frequently recommended survey and monitoring protocols for blunt-nosed leopard lizard, burrowing owl, and California tiger salamander can be found at <https://wildlife.ca.gov/Conservation/Survey-Protocols>. CDFW is also available for consultation about survey methods and mitigation measures prior to completion of the draft EIR.

Nesting birds

CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

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

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of

Tiffany Ho, Planner III
Merced County Department of Community and Economic Development
September 13, 2021
Page 7

non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Federally Listed Species: CDFW also recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to BNLL, CTS, GKR, and SJKE. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground disturbing activities.

ENVIRONMENTAL DATA

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

FILING FEES

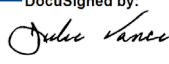
If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CDFW appreciates the opportunity to comment on the Project to assist the Merced County Department of Community and Economic Development in identifying and mitigating the Project's impacts on biological resources.

Tiffany Ho, Planner III
Merced County Department of Community and Economic Development
September 13, 2021
Page 8

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead or by electronic mail at Jim.Vang@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachment 1

ec: Patricia Cole, USFWS
patricia_cole@fws.gov

State Clearinghouse
Governor's Office of Planning and Research
state.clearinghouse@opr.ca.gov

Carrie Swanberg
Jim Vang
California Department of Fish and Wildlife

Tiffany Ho, Planner III
Merced County Department of Community and Economic Development
September 13, 2021
Page 9

LITERATURE CITED

California Department of Fish and Game (CDFG). 1994. Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo Swainsoni*) in the Central Valley of California. California Department of Fish and Game.

California Department of Fish and Wildlife (CDFW). 2015. State Wildlife Action Plan 2015 Update. Species of greatest conservation need.
<https://wildlife.ca.gov/SWAP/Final>

California Department of Fish and Wildlife (CDFW). 2016. Five Year Status Review for Swainson's Hawk (*Buteo swainsoni*). California Department of Fish and Wildlife. April 11, 2016.

California Department of Fish and Wildlife (CDFW). 2021. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>.

H.T. Harvey and Associates. 2004. Habitat Conservation Plan for the San Joaquin kit fox at the Arnaudo Brothers, Wathen-Castanos, and River East Holdings sites within, and adjacent to, the Santa Nella Community Specific Plan area. Prepared for Wathen Castanos, Arnaudo Brothers, and River East Holdings June 14, 2004.

Swainson's Hawk Technical Advisory Committee (SWHA TAC). 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee, May 31, 2000.

Attachment 1**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)****PROJECT: Las Camas Solar Project****SCH No.: 2021080196**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure: SJKF	
SJKF Evaluation	
SJKF Take Authorization	
Mitigation Measure: SWHA	
SWHA Surveys	
SWHA Foraging Habitat Loss	
SWHA Take Authorization	
<i>During Construction</i>	
Mitigation Measure: SWHA	
SWHA Avoidance	



PH: 209.723.4481
FAX: 209.384.3109
7040 N. Highway 59
Merced, CA 95348

September 13, 2021

Via Electronic Mail
tho@co.merced.ca.us

Tiffany Ho, Planner III
Merced County
Community and Economic Development Department
2222 M Street
Merced, CA 95340

Re: Notice of Preparation - Draft EIR for Las Camas Solar Project (Conditional Use Permit No. 20-011; General Plan Amendment No. 20-001; Zone Change Amendment No. 21-002)

Dear Ms. Ho:

This comment letter is written in response to the Notice of Preparation (NOP) issued for the Draft Environmental Impact Report (EIR) being prepared pursuant to the California Environmental Quality Act (CEQA) for the Las Camas Solar Project (Conditional Use Permit No. 20-011; General Plan Amendment No. 20-001; Zone Change Amendment No. 21-002) (the proposed project). I submit this letter on behalf of the Merced County Regional Waste Management Authority (RWA or Authority).

RWA has several concerns about the proposed project, in particular, land use conflicts resulting from the proximity of the project to the Billy Wright Landfill, located at 17173 South Billy Wright Rd., Los Banos, just west of Interstate Highway 5 and south of Highway 152/33. As well, RWA has concerns and feedback regarding the project description, other potentially significant environmental impacts, and alternatives that should be considered in the Draft EIR.

We provide the following preliminary comments to the County. But first we provide a formal request for notice and some background information.

I. Request for Notice

Merced County RWA formally requests notice of all future public hearings and environmental documents, along with any other public notices, related to the proposed project. If any future notice issues relating to the project via email, please also provide us with notice via email. Please include the following names, emails, and addresses on your mailing list for all future public notices:

Stacie Guzman, Executive Director
Merced County Regional Waste Management
Authority
7040 N. State Highway 59
Merced, CA 95348
stacie.guzman@mcagov.org

Andee Leisy
Remy Moose Manley, LLP
555 Capital Mall, Ste. 800
Sacramento, CA 95814
aleisy@rmmenvirolaw.com

II. Background

The Billy Wright Landfill has been in operation by the Merced County RWA since 1983. The Landfill primarily serves the cities of Dos Palos, Gustine, and Los Banos, the community of Santa Nella, and the unincorporated areas of western Merced County. The Landfill accepts Class III permitted wastes, non-hazardous solid waste, inert wastes, and nonfriable asbestos. At present, the Billy Wright Landfill is permitted to accept up to 1,500 tons per day of solid waste. This represents a large portion of the region's waste and represents the importance of the facility to the region and the County.

III. NOP Comments

Below are several preliminary comments based on the information provided in the NOP and Merced County RWA's knowledge of the project site, surrounding land, region, history, and local and regional planning.

a. The NOP Omits Critical Information

At the onset, it is worth mentioning that the NOP makes no mention of the Billy Wright Landfill, located just south of the proposed project site. The County includes a discussion on what exists north, west, and east of the site in the "Existing Environment" section of Attachment 1 of the NOP. Indeed, the NOP mentions land uses to the north and east that occur "several miles from the proposed project site." yet oddly omits any mention of what resides directly to the south. (NOP, Attachment 1, p. 2.) This omission is critical because identifying the surrounding land uses assists the public and Responsible/Trustee Agencies in determining potential issues and concerns, ultimately then establishing the scope of the EIR. This is a primary purpose of an NOP. (See CEQA Guidelines § 15082.) The County should consider revising and reissuing the NOP.

b. Project Description

The NOP states that the proposed project includes installation of up to two miles of underground wires for electricity conveyance. (NOP, Attachment 1, p. 3.) The NOP details are scant, but the EIR should include the specific alignment for these wires and discuss how this alignment will avoid any sensitive areas at the Billy Wright Landfill and how any construction trenching will not impact Landfill safety and operations. Please ensure this specificity is included in the EIR.

As well, in its proposed project description, the NOP includes a Habitat Conservation Plan (HCP) for the incidental take permits required from both the U.S. Fish and wildlife Service and the California Department of Fish and Wildlife for the San Joaquin kit fox and for the proposed offsite conservation easement (NOP, Attachment 1, p. 5.). The County should ensure that the HCP is included and analyzed as part of the proposed project. (See CEQA Guidelines § 15378(a); see also, e.g., *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 729–735 [offsite infrastructure components must be included in the project description].)

c. Land Use Conflicts

Portions of the proposed project appear to create conflicts with existing land uses at the Billy Wright Landfill. The County's General Plan Policy PFS-4.4 (Land Use Compatibility with Solid Waste Facilities (RDR)) requires that "solid waste facility sites and landfills [be] protected from encroachment by incompatible land uses. .." (General Plan, p. PFS-7.)

Here, the proposed project appears to omit the inclusion of buffers from the Landfill, proposes to up-zone the intensity of allowed future uses directly adjacent to the Landfill and would therefore appear to cut off any future expansion of the Landfill. The NOP also does not appear to address the mitigation measures relevant to the Landfill from the *Villages of Laguna San Luis Community Plan* project. The proposed project would further curtail expansion to the north, thereby leaving the Landfill with no viable expansion possibilities. Encroaching on the Landfill and thwarting the ability to expand in the future if needed creates a significant land use impact that must be thoroughly considered in the EIR.

Further, the proposed project must, at the very least, respect the existing buffers that are required for development adjacent to the Landfill. The current *Villages of Laguna San Luis Community Plan* requires a 300-foot buffer between areas zoned for residential development and the border of the Landfill property (two 100-foot open space corridors and a 100-foot road right-of-way). (See *Villages of Laguna San Luis Community Plan Draft EIR* (Draft EIR), pp. 5.1-13, 5.1-18 to 5.1-19 [MM 5.1-2a].) This buffer, along with additional buffers and setbacks, was deemed necessary in order to reduce land use conflicts to a less-than-significant level. (*Id.*, pp. 5.1-18 to 5.1-19; see also *Villages of Laguna San Luis Community Plan*, p. 4.1-14 [Policy 4.A.5].) These requirements are included in the adopted Mitigation Monitoring and Reporting Program (MMRP) for the *Villages of Laguna San Luis Community Plan*. (MMRP, p. MMP-3.)

Because the proposed project would create similar land use conflicts, buffers and setbacks must be incorporated into the project. The NOP says nothing about buffers and setbacks but the full project description in the EIR should. Merced County RWA requests that the County include these same buffers and setbacks as part of the proposed project in the EIR to minimize land use conflicts. If these buffers and setbacks are not honored, then the EIR must include a full discussion of the resulting potentially significant impacts.

The NOP states that the proposed project will also rezone what is now designated low-density residential south of the project site, and south and east of the Landfill, to medium- and high- density residential. (NOP, Attachment 1, p. 7.) This change in zoning and housing density creates additional land use conflicts as it would increase the number of sensitive receptors directly surrounding the Landfill and could divide a planned and approved community. Merced County RWA therefore requests that the County discuss these potential land use conflicts in the EIR and either eliminate this part of the proposed project or analyze an alternative, other than the no project alternative, that preserves the status quo for this area and instead up-zones other portions of the Community Plan which are removed from the Landfill.

d. Other Potentially Significant Adverse Environmental Impacts

In addition to the land use conflicts discussed above, the following other potentially significant environmental impacts should be included and fully discussed in the EIR.

Air Quality

The Draft EIR must consider the air quality emissions from not only construction and operation of the proposed project, but also the potential health effects from increasing the intensity of residential uses so close to the Landfill. A Health Risk Assessment (HRA) must be prepared for any “planned operation” “within one mile of the Billy Wright landfill.” (Draft EIR, p. 5.12-33 [MM 5.12-4a].) This HRA must take into consideration “the current and future configurations and operations of the landfill, which may include any or all of the existing condition, an expanded landfill, a transfer station, or other uses.” (*Ibid.*) This requirement is included in the adopted MMRP for the *Villages of Laguna San Luis Community Plan*. (MMRP, p. MMP-52.)

Biological Resources

As discussed above, the proposed project includes an HCP for the federal and State incidental take permits and for the proposed offsite conservation easement. The NOP states that the HCP will be subject to a separate environmental review under the National Environmental Policy Act (NEPA). However, a NEPA review does not satisfy CEQA requirements. (See CEQA Guidelines § 15126.) Merced County RWA requests that the County fully analyze the impacts of this HCP in the EIR on biological resources and on any other applicable resources. The County should consider preparing a joint EIR/EIS.

Also, the proposed project description in the NOP states that construction will entail approximately ten months of underground work and installation involving vibratory activities such as deep trenching and pile driving. (NOP, Attachment 1, pp. 5–6.) This type of activity can have significant impacts on biological species.¹ Moreover, -there will be impacts related to the

¹ See, e.g., Senzaki, Masayuki, et al. (Mar. 18, 2020) *Direct and Indirect Effects of Noise Pollution Alter Biological Communities in and near Noise-Exposed Environments*, The Royal Society,

loss of foraging habitat due to solar panel construction and fencing and increased risks to wildlife as wildlife species as a result of current landfill operations, which may receive additional wildlife fleeing the proposed project site. These potential impacts need to be considered. RWA requests that Merced County fully analyze the effects of this vibratory work on biological species, both on and offsite, in the EIR and any effects this infrastructure could have on the Landfill, as well as the impacts of the loss of foraging habitat and risks to wildlife that will enter the Landfill.

Public Services

As stated above, the proposed project as presented in the NOP would remove the Billy Wright Landfill's ability to expand, thus having a long-term regional disposal capacity effect on the Billy Wright Landfill that is directly associated with the redesignation and development of property surround the entire Billy Wright landfill site. This likely will result in a shortage of solid waste disposal options and the eventual construction of a new facility, or expansion of another existing facility. These are reasonably foreseeable consequences of precluding the Landfill's ability to expand and should be considered in the EIR. (See CEQA Guidelines §§ 15126, 15126.2(a), 15358, 15382.)

Transportation

The proposed project description in the NOP states that vehicular access to the site will be via Bill Wright Road. (NOP, Attachment 1, p. 5.) This roadway also provides access to the Billy Wright Landfill, under the Interstate 5 highway bridge and will provide access to the residential communities that are a part of the approved Villages of Laguna San Luis Community Plan, which will be situated to the north, west, and further south of the site. (Draft EIR, p. 3-5.) This increased use of the roadway may result in traffic impacts as well as potential traffic safety impacts involving the slower moving collection and transfer trucks which frequent the Landfill site. Merced County RWA requests that the County fully analyze these potentially significant traffic impacts in the EIR, including preparing a traffic study to gather the necessary amount of scientific and factual data to assess the impact. (See CEQA Guidelines § 15064(b)(1), (c), (d)(1).)

Utilities

Water Supply: The proposed project description in the NOP states that "a new on-site water well" may be required to supply water to the operations and maintenance building. (NOP, Attachment 1, p. 4.) Installation of a new well may result in significant impacts to the local water supply or may be problematic given the proposed project's proximity to the Landfill.

available at: <https://royalsocietypublishing.org/doi/10.1098/rspb.2020.0176>; Norton, John N., et al. (Sept. 2011), *Comparative Vibration Levels Perceived Among Species in a Laboratory Animal Facility*, J. Am. Assoc. Lab. Anim. (vol. 50 (5)), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3189668/>.

This potentially significant impact should be analyzed in the EIR as part of the project. (See *Protecting Our Water and Environmental Resources v. County of Stanislaus* (2020) 10 Cal.5th 479.)

Natural Gas Lines: The proposed project site currently has “[t]wo underground gas pipelines” crossing its eastern portion. (NOP, Attachment 1, p. 2.) To ensure “a good-faith effort at full disclosure” (see CEQA Guidelines §§ 15003(i), 15121(a)), the EIR must discuss the purpose of these gas lines, whether they will be impacted by the proposed project along with any necessary mitigation measure to reduce impacts, and/or safety measures that will be taken to avoid these gas lines during construction and facility maintenance. Merced County RWA requests that the County fully discuss and analyze any impacts and safety measures related to these gas pipelines in the EIR.

e. Alternatives

CEQA requires that a reasonable range of project alternatives “which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects” be considered in an EIR. (CEQA Guidelines § 15126.6(a).) As part of this reasonable range, the County should consider alternatives that reduce or eliminate land use conflicts. The Authority therefore recommends that the following alternatives, or comparable versions, be considered in the EIR:

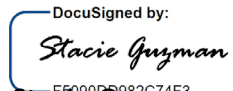
- An alternative project site that is nearby but does not abut the Landfill and preclude any future necessary expansion. Sites might include the area west of the Landfill within the Villages of Laguna San Luis Community Specific Plan area that is currently zoned as Urban Reserve or further south of the landfill and north of Los Banos Reservoir near the existing Wright Solar Park (see Conditional Use Permit No. 12-017; Final EIR State Clearinghouse # 2013101071).
- An alternative project site that does not require converting residential zoning to non-residential. The rezoning of certain low-density residential south of the project site to medium- and high-density residential does not compensate for the 40-year loss of the total approved housing that will result from the proposed project. This particularly unfortunate result contravenes the State Legislature’s policies with its recent wave of housing bills intended to alleviate the State’s housing crisis, including the Housing Accountability Act (2018) and the California Housing Crisis Act (2019).
- An alternative that allows the underlying zoning to remain the same in the area south of the Landfill, by re-zoning or up-zoning other portions of the Community Plan area or creating a new zoning designation in the County via ordinance to allow for projects such as this as a temporary use.

* * *

RWA appreciates this opportunity to provide comments on the NOP for the Las Camas Solar Project and looks forward to working with your department to address the issues raised in this letter.

Sincerely,

DocuSigned by:

A blue ink handwritten signature of Stacie Guzman, written in a cursive style.

Stacie Guzman

Executive Director

California Department of Transportation

OFFICE OF THE DISTRICT 10 DIRECTOR
P.O. BOX 2048 | STOCKTON, CA 95201
(209) 948-7943 | FAX (209) 948-7179 TTY 711
www.dot.ca.gov



September 13, 2021

10-MER-152-PM 13.232
Las Calmas Solar Project
County of Merced

Ms. Tiffany Ho
Planner III
County of Merced
2222 M Street
Merced, CA 95340

Dear Ms. Ho:

Thank you for the opportunity to review the proposed Las Calmas Solar Project. The Department has the following comments:

1. The proposed project will have potential operational impacts on SR 152 during construction, especially at the intersection of SR 152/Billy Wright Road. The Transportation Impact Study is required and needs to be prepared per Vehicle Miles Traveled-Focused Transportation Impact Study Guide (TISG), May 20, 2020.
2. The traffic data used for the operational analysis at the SR 152/Billy Wright Road should be collected before the Covid-19 Pandemic. If the data is collected recently, adjusted factor needs to be applied.
3. With the potentially significant construction traffic including employee and truck traffic volumes at SR 152/Billy Wright Road, the TIS needs to include the safety analysis as follows:
 - Queuing/deceleration/acceleration at the intersection
 - Conflicts between the project's construction traffic and mainline SR 152 traffic
 - With the heavy volume on SR 152, high speed at this location, and heavy construction truck volume, the project's construction traffic needs to be prohibited from making a left-turn from Billy Wright Road onto westbound SR 152 and from westbound SR 152 onto Billy Wright Road. Detour plan for left-turn traffic needs to be discussed.
 - Truck entering and exiting the Billy Wright Road

4. The TIS needs to discuss the coordination with the County landfill regarding the access of landfill trucks during project's construction.
5. Please use Synchro 10 for the queue analysis at the intersection of SR 152/Billy Wright Road. The electronic file of the analysis needs to be submitted for reviewed.
6. Any work within the State's right-of-way will require an encroachment permit from Caltrans and must be done to our engineering and environmental standards, and at no cost to the State. The conditions of approval and the requirements for the encroachment permit are issued at the sole discretion of the Permits Office. For more information regarding the encroachment permit process, please visit our Encroachment Permit Website at: <https://dot.ca.gov/programs/traffic-operations/ep> or you can contact their office at (209)948-7891.

Please keep us updated as the project progresses, we would like to review and provide comment to those developments.

If you have any questions, please contact Hilda Sousa at (209)986-9859 (email: hilda.sousa@dot.ca.gov) or me at (209)941-1921. We look forward to continuing to work with you in a cooperative manner.

Sincerely,

 for

TOM DUMAS, Chief
Office of Metropolitan Planning

September 13, 2021

Tiffany Ho
County of Merced
Community and Economic Development Department
2222 M Street
Merced, CA 95340

Project: Notice of Preparation for a Draft Environmental Impact Report for the Las Camas Solar Project (Conditional Use Permit No. CUP 20-011; General Plan Amendment No. 20-001; and Zone Change Amendment No. ZC 21-002

District CEQA Reference No: 20210869

Dear Ms. Ho:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Notice of Preparation (NOP) referenced above from the County of Merced (County) for the construction, operation, and maintenance of a 200-megawatt (MW) alternating current (AC) ground-mounted solar photovoltaic (PV) power plant (Project). The Project is located approximately three miles southeast of the community of Santa Nella, six miles west of the City of Los Banos, and 30 miles southwest of the City of Merced, CA (APN 078-160-012, 013, 047, 056, 060, 078-172-001, 078-190-004, and 05).

Project Scope

The Project consists of the construction, long-term operation, and eventual decommissioning of a 200 MW AC PV power plant. The Project will include a transmission line running from a new substation within the project site to Pacific Gas and Electric's Los Banos Substation located west of the project site. The gen-tie line will range from 0.25 miles to two miles, depending on the site of the substation. The Project will also include internal access roads, security gates, fencing, lighting, and a 1,200 square foot Operations and Maintenance building. In addition, the Project proposes transmission system upgrades around the Los Banos substation including the construction of a new control building.

The NOP indicates that a proposed Environmental Impact Report will be prepared by the County. At this time, the associated documents submitted to the District does not provide

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: (861) 392-5500 FAX: (861) 392-5585

sufficient information to allow the District to assess the Project's potential impact on air quality. As such, the environmental analysis should include a Project summary detailing, at a minimum, estimates of potential mobile and stationary emission sources, and proximity to sensitive receptors and existing emission sources.

District significance thresholds for annual emissions of criteria pollutants are the following: 100 tons per year of carbon monoxide (CO), 10 tons per year of oxides of nitrogen (NO_x), 10 tons per year of reactive organic gases (ROG), 27 tons per year of oxides of sulfur (SO_x), 15 tons per year of particulate matter of 10 microns or less in size (PM₁₀), or 15 tons per year of particulate matter of 2.5 microns or less in size (PM_{2.5}). The District recommends that a more detailed preliminary review of the Project be conducted for the Project's construction and operational emissions.

Other potential significant air quality impacts related to Toxic Air Contaminants (see information below under Health Risk Assessment), Ambient Air Quality Standards, Hazards and Odors, may require assessments and mitigation. More information can be found in the District's Guidance for Assessing and Mitigating Air Quality Impacts at: <https://www.valleyair.org/transportation/GAMAQI.pdf>

The District offers the following comments:

1) Project Related Criteria Pollutant Emissions

The District recommends that a more detailed preliminary review of the Project be conducted for the Project's construction and operational emissions. The additional environmental review of the Project's potential impact on air quality should consider the following items:

1a) Project Related Construction Emissions

Construction emissions are short-term emissions and should be evaluated separately from operational emissions. Equipment exhaust, as well as fugitive dust emissions should be quantified. For reference, the District's annual criteria thresholds of significance for construction are listed above

The District recommends that the County consider the use of the cleanest reasonably available off-road construction practices (i.e. eliminating unnecessary idling) and fleets. To reduce impacts from construction-related diesel exhaust emissions, the project should utilize clean off-road construction equipment, including the latest tier equipment as feasible.

1b) Project Related Operational Emissions

Emissions from stationary sources and mobile sources should be analyzed separately. For reference, the District's annual criteria thresholds of significance for operational emissions are listed above.

1c) Recommended Model

Project related criteria pollutant emissions from construction and operational sources should be identified and quantified. Emissions analysis should be performed using CalEEMod (**C**alifornia **E**mission **E**stimator **M**odel), which uses the most recent approved version of relevant Air Resources Board (ARB) emissions models and emission factors. CalEEMod is available to the public and can be downloaded from the CalEEMod website at: www.caleemod.com.

2) Voluntary Emission Reduction Agreement

If the Project is expected to have a significant impact, the District recommends the EIR also include a discussion on the feasibility of implementing a Voluntary Emission Reduction Agreement (VERA) for this Project.

A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate Project specific emissions by providing funds for the District's incentives programs. The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-specific regional impacts on air quality can be fully mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors.

In implementing a VERA, the District verifies the actual emission reductions that have been achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. After the project is mitigated, the District certifies to the Lead Agency that the mitigation is completed, providing the Lead Agency with an enforceable mitigation measure demonstrating that project-specific regional emissions have been mitigated to less than significant. To assist the Lead Agency and project proponent in ensuring that the

environmental document is compliant with CEQA, the District recommends the Draft EIR includes an assessment of the feasibility of implementing a VERA.

3) Health Risk Screening/Assessment

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

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

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

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

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

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

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

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

- E-Mailing inquiries to: hramodeler@valleyair.org; or
- The District can be contacted at (559) 230-6000 for assistance; or
- Visiting the District's website (Modeling Guidance) at:
http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm.

4) Ambient Air Quality Analysis

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

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

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

5) Cumulative Air Impacts

In addition to the discussions on the topics identified above, the District recommends the EIR also include a discussion of whether the Project would result in a cumulatively considerable net increase of any criteria pollutant or precursor for which the San Joaquin Valley Air Basin is in non-attainment. More information on the District's attainment status can be found online by visiting the District's website at: <http://valleyair.org/aqinfo/attainment.htm>.

6) District Rules and Regulations

The District issues permits for many types of air pollution sources and regulates some activities not requiring permits. A project subject to District rules and regulation would reduce its impacts on air quality through compliance with regulatory requirements. In

general, a regulation is a collection of rules, each of which deals with a specific topic. Here are a couple of example, Regulation II (Permits) deals with permitting emission sources and includes rules such as District permit requirements (Rule 2010), New and Modified Stationary Source Review (Rule 2201), and implementation of Emission Reduction Credit Banking (Rule 2301).

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

6a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

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

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to 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 (209) 557-6446.

6b) 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.

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

(AIA) application is required prior to applying for project-level approval from a public agency. In this case, if not already done, please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510.

An AIA application is required and 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.

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>.

6c) District Regulation VIII (Fugitive PM₁₀ Prohibitions)

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

The application for both the Construction Notification and Dust Control Plan can be found online at:
<https://www.valleyair.org/busind/comply/PM10/forms/DCP-Form.docx>

Information about District Regulation VIII can be found online at:
http://www.valleyair.org/busind/comply/pm10/compliance_pm10.htm

6d) Other District Rules and Regulations

The Project may also be subject to the following District rules: Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

7) District Comment Letter

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

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

Sincerely,

Brian Clements
Director of Permit Services



For Mark Montelongo
Program Manager



Local Agency Formation Commission
2222 M Street
Merced, CA 95340
Phone (209) 385-7671 / Fax (209) 726-1710
www.lafcomerced.org

DATE: September 14, 2021

TO: Tiffany Ho, Planner III
Merced County CEDD

FROM: Bill Nicholson, Executive Officer

RE: Notice of Preparation Comments on Las Camas Solar Project and Related
Implications for the Villages of Laguna San Luis Community Plan

The proposed Las Camas Solar Project is to be located on top of the existing approved Villages of Laguna San Luis Community Plan. As identified in the Notice of Preparation (NOP), to allow the solar project to be considered, the Community Plan needs significant amendment and modification to the urban zoning of the property.

Merced LAFCO is specifically prohibited from regulating land use under the provisions in section 56375 of the Government Code, and LAFCO would not typically have a role in review or approval of a solar project. However, the amendments to the adopted Community Plan raise concerns that are potentially within LAFCO's jurisdiction having to do with the provision of urban services and the County's plan for supplying potable water and wastewater treatment services to the planned community.

When the Community Plan was prepared and adopted, and the original Environmental Impact Report was certified in 2008, the County relied upon studies and commitments by the San Luis Water District that they would supply the public water to the project based on existing district and landowner water rights under the assumption landowners would be permitted to transfer three acre feet of water rights from other property within the district for every acre that would be developed, with the conclusion this would result in an adequate water supply of two acre feet per acre, even under drought conditions.

Since the San Luis Water District had the power to provide both agricultural and urban water supplies, LAFCO was not required to take any action to annex land to the district or to form a new urban special district or other alternative. Therefore, LAFCO took no role in the previous plans and actions by the County.

However, as the water supply from the US Bureau of Reclamation has been repeatedly cut to levels well below a maximum 25% reduction previously assumed by the district, the water supply for the Community can no longer be based the analysis and conclusions of the previous EIR. The property is reliant on an agricultural water allotment from the Bureau which can be reduced to zero and should not be identified as the basis for urban development for the General Plan Amendment and Zone Change projects.

In addition to recognizing this change in the project setting, the San Luis Water District Board of Directors has stated in previous Board meetings attended by LAFCO Staff that they are no longer interested in becoming the public district responsible for water or sewer service to the Community, and they have also withdrawn from any role or responsibility in being the urban service district for the nearby Fox Hills Community Plan which the County approved based on similar commitments from the District.

Therefore, the County needs to identify who will replace the San Luis Water District as the provider of the urban water and wastewater services, and where the water supply can reasonably come from. Annexation to a nearby independent special district such as the Santa Nella County Water District, formation of a new water or community services district, the use of the County Service Area (CSA) to have the County manage and operate these systems are several options - which are all subject to LAFCO review and approval.

Alternately, a private utility that could construct and operate the water and wastewater infrastructure is another possibility that would be subject to the State Public Utilities Commission rather than LAFCO. If this approach is proposed in the updated Community Plan, there is still a need to identify the water source.

This letter is rather brief, but the topic is critical for a decision by the County to amend the Community Plan while attempting to retain the significant development planned to accommodate 44,743 residents. Please provide a copy of the Draft EIR to Merced LAFCO.

Thank you for providing this opportunity to comment on the NOP, and let me know if you have any questions.

Sincerely,



Bill Nicholson
Executive Officer

cc: LAFCO Commissioners