

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk
County of: Kern
1115 Truxtun Avenue, First Floor
Bakersfield, CA 93301-4639

From: (Public Agency): Southern San Joaquin Municipal Utility District
11281 Garzoli Ave
Delano, CA 93215

(Address)

Project Title: Dark Horse Solar Project

Project Applicant: Dark Horse Solar, LLC

Project Location - Specific:

Approx. 20-acre parcel (APN 050-060-11) in unincorporated Kern County

Project Location - City: Unincorporated Project Location - County: Kern

Description of Nature, Purpose and Beneficiaries of Project:

Construction and operation of a 1.3-megawatt solar photovoltaic energy generation facility on an approximately 20 acre site to provide an alternative energy source for the Southern San Joaquin Municipal Utility District. See Attachment A for additional information about the project.

Name of Public Agency Approving Project: Southern San Joaquin Municipal Utility District

Name of Person or Agency Carrying Out Project: Southern San Joaquin Municipal Utility District

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: _____
- EI Statutory Exemptions. State code number: 15268

Reasons why project is exempt:


CEQA Guidelines Section 15268 state that ministerial projects are statutorily exempt from CEQA. This project is a "by right" use consistent with the Kern County General Plan Land Use Designation of Intensive Agriculture for the project site and requires ministerial approval only for a building permit. See Attachment A for additional information and reasoning.

Lead Agency

Contact Person: Rand Gross Area Code/Telephone/Extension: (661) 619-3645

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature:  Date: 11/8/2024 Title: General Manager

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

Attachment A

Statutory Exemption Report



Dark Horse Solar Project

Statutory Exemption Report

prepared for

White Pine Renewables

7621 North Del Mar Avenue, Suite 102
Fresno, California 93711
Contact: Abigail Bowdish

prepared by

Rincon Consultants, Inc.

7080 North Whitney Avenue, Suite 101
Fresno, California 93720

November 2024



RINCON CONSULTANTS, INC. SINCE 1994

Table of Contents

1	Introduction	1
2	Project Description	2
2.1	Project Title.....	2
2.2	Project Location and Setting.....	2
2.3	General Plan and Zoning Designations	2
2.4	Project Characteristics	2
3	Statutory Exemption Applicability	2
4	Summary	3

Figures

Figure 1	Regional Location	3
Figure 2	Project Site Location.....	1

This page intentionally left blank.

1 Introduction

This report serves as the documentation of analysis performed by Rincon Consultants, Inc. (Rincon) on behalf of Dark Horse Solar, LLC (“Applicant”) for the Dark Horse Solar Project (Project). The Project involves construction, operation, maintenance, and decommissioning of a solar photovoltaic electricity generating facility. The Project would be located on approximately 20 acres of previously disturbed land in unincorporated Kern County, California.

CEQA Guidelines Section 15268 state that a Statutory Exemption can be made for ministerial projects. According to Section *CEQA Guidelines* Section 15369, “Ministerial” describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. The determination of what is "ministerial" can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, and each public agency should make such determination either as a part of its implementing regulations or on a case-by-case basis which projects are considered exempt from CEQA.

The intent of the analysis is to document whether the Project meets the requirements as a Statutory Exemption under the California Environmental Quality Act (CEQA). This report provides an introduction, project description, and evaluation of the Project’s consistency with the requirements for a Statutory Exemption. The report concludes that the Project is eligible for a Statutory Exemption.

2 Project Description

2.1 Project Title

Dark Horse Solar Project (Project)

2.2 Project Location and Setting

The Project site is approximately 20 acres (Assessor Parcel Number 050-060-11) in unincorporated Kern County. The project site does not have an address but is located on the northeastern corner of Hart Avenue and Kyte Road. The Project site is located approximately 6 miles southeast of the City of Delano and approximately 6 miles northeast of the City of MacFarland in Kern County and is an area characterized by agricultural land, utility infrastructure, agricultural facilities, industrial uses, and rural residences. The Project site is bounded on all sides by agricultural land, as well as Kyte Road to the west, a rural residence to the north, Hart Avenue to the south, and a Pacific Gas & Electric (PG&E) substation to the southeast. The Project site is generally flat and includes former agricultural land.

Figure 1 shows the regional location of the Project site and

Figure 2 shows the Project site boundary and the immediate surroundings.

2.3 General Plan and Zoning Designations

The Project site has a Kern County General Plan land use designation of Intensive Agriculture with a minimum 20-acre parcel size (8.1).

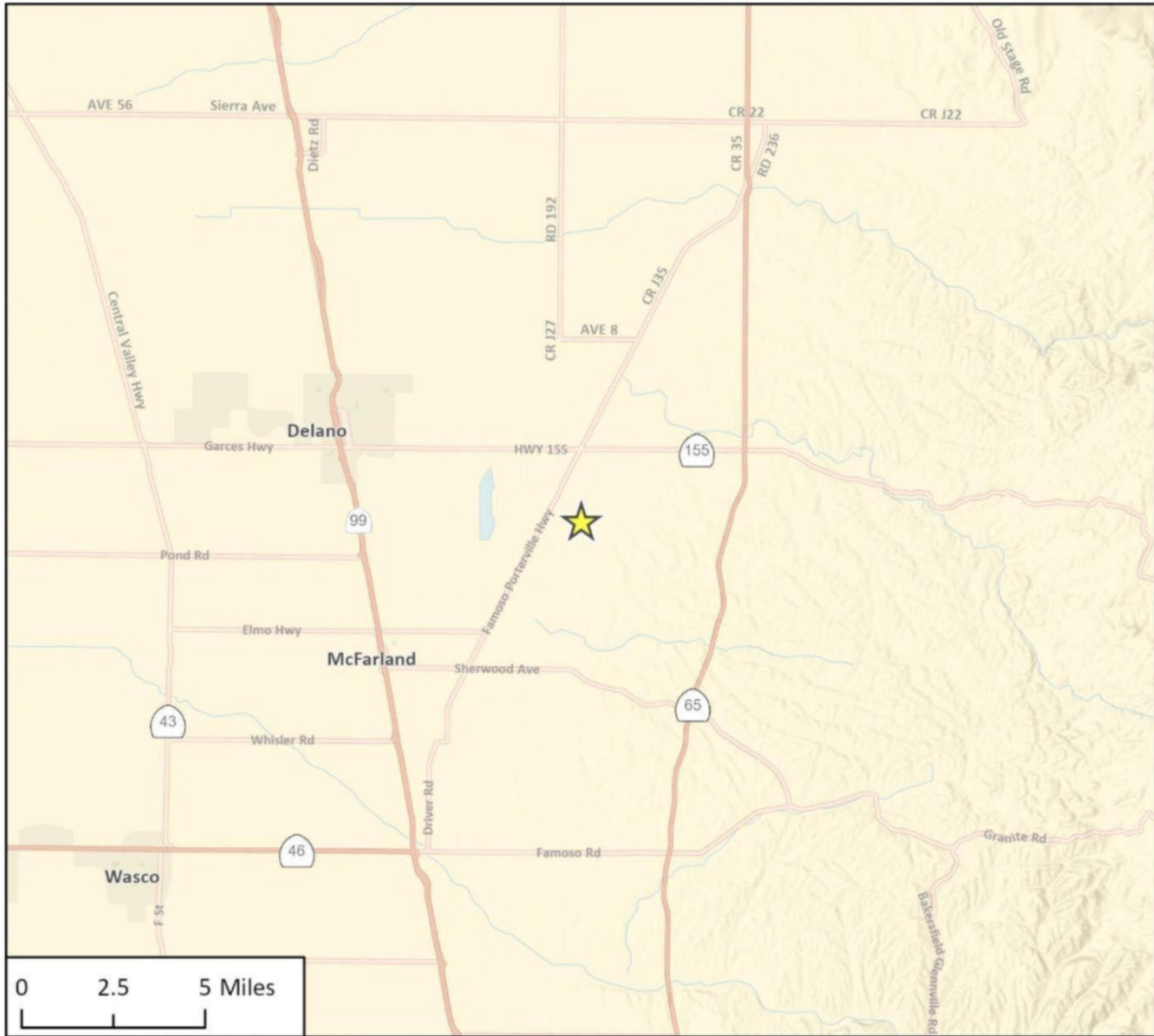
The Project site is zoned as Exclusive Agriculture (A). The County provides the permitted uses in this zone in Chapter 19.12 of the Kern County Zoning Ordinance.

2.4 Project Characteristics

The Applicant has entered into a Solar Power Services Agreement (SPSA) with the Southern San Joaquin Municipal Utility District (SSJMUD) for the use of energy generated from a solar photovoltaic electricity generating facility which will serve SSJMUD's on-site consumption. Per the terms of the SPSA, Dark Horse Solar, LLC is the power provider and would construct, operate, maintain, and decommission the solar facility and associated infrastructure to provide power to serve SSJMUD's facilities. The Project would generate approximately 8,912,006 kWh in the first year that the solar array is in place, which would offset the SSJMUD's energy usage from PG&E under the NEMA¹ tariff. The nameplate capacity of the facility is expected to be 1.3 MW. The Project is anticipated to generate power for 25 years or more with the option to extend following the initial term. The Project will be interconnected to PG&E's distribution system through a primary meter within the project site.

¹ Net Energy Metering Aggregation tariff permits residents to connect solar and battery systems to one meter, share energy across multiple meters, and export excess electricity to the utility distribution system. The power generated from the proposed project would go to the grid and SSJMUD would then receive a credit.

Figure 1 Regional Location



Imagery provided by Esri and its licensors © 2024.

★ Project Location

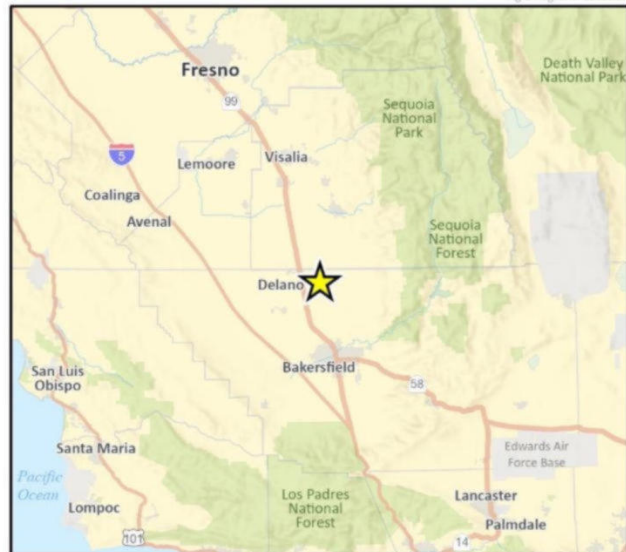
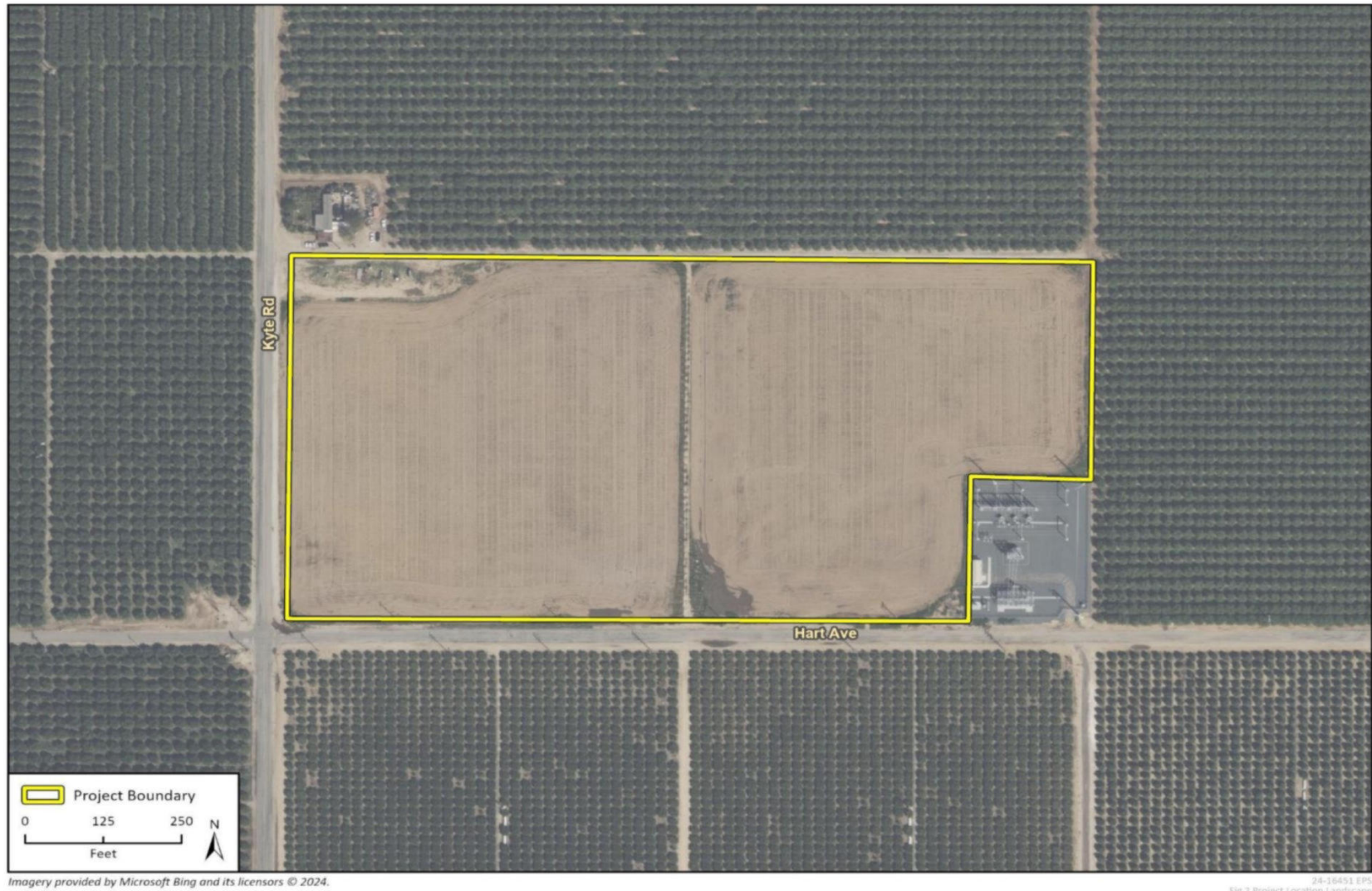


Figure 2 Project Site Location



The Project would include the following components/characteristics:

- A solar array generating approximately 8,912,006 kWh in the first year that the solar array is in place.
- A main service panel with expected incoming power of 240/120VAC, 1PH, 3W, and 60Hz.
- Approximately 1.3 MW nameplate capacity of the facility.
- PV solar array steel support structures, electrical inverters, service boards, transformers, cabling, and other system components.
- Metering facilities, conductors, and safety equipment for interconnection to PG&E's Distribution System at the site.
- A 1-MW battery energy storage system, including concrete pads, transformers, cabling and other system components located along the southwestern border of the project site.
- A fence surrounded the facility, and an access road constructed around the perimeter of solar arrays with site access west of the development via a public county road along the western project boundary.

No built structures (such as operations and maintenance buildout or restroom) other than the solar PV equipment would be constructed. Access to the site would be from an existing road on the east side of the project boundary from Kyte Road and a 24-foot-wide double swing gate on the northwestern corner on the project site.

Construction activities are anticipated to occur for 6 months. During construction, site preparation and engineered fill construction is expected. Krazam & Associates, Inc., prepared a Geotechnical Engineering Investigation dated July 24, 2024. Based on the analyses contained in the investigation, the site contains upper soils of approximately 6 to 12 inches of loose silty sands characterized as low strength and highly compressible and groundwater was not encountered. The Geotechnical Evaluation provided construction related recommendations in connection with site preparation of soils (removal of loose soils, bottom stabilization, suitable fill material, placement of compacted fill, and testing of compacted fill); utility trench backfill; temporary excavations (slot cuts and shoring); foundation design; concrete and asphalt pavement design; and retaining wall design criteria.

After construction, the Project would be automated to allow operation with no staffing present. Production and system health data, as well as onsite weather data, would be monitored remotely and gathered electronically. Periodic site maintenance and washing of the solar panels, which may be necessary to maintain efficiency, would occur on an as-needed basis and is anticipated to occur up to two times per year, depending on annual precipitation and vegetation growth. Such maintenance would require temporary staffing on site and use of a water truck. The trucks would obtain water from nearby SSJMUD facilities. Portable restrooms would be brought to the site during any maintenance activities. No onsite restroom facilities are included in the Project because the Project site would not house any permanent employees. Additionally, no water service is proposed to the Project site. No lighting would be required for the Project.

3 Statutory Exemption Applicability

Article 18 of the *CEQA Guidelines* describes the exemption from CEQA granted by the California Legislature, which are referred to as Statutory Exemptions. Pursuant to *CEQA Guidelines* Section 15268, this includes ministerial projects. The determination of what is ministerial “can most appropriately be made by the particular public agency involved based upon its analysis of its own laws.” In the absence of any discretionary provision contained in the local ordinance or other law establishing the requirements for the permit, license, or other entitlement for use, the issuance of building permits and business licenses as well as the approval of final subdivision maps and individual utility service connections and disconnections are presumed to be ministerial (*CEQA Guidelines* Section 15268[b]).

As described previously, the Project is located within an unincorporated area of Kern County and thus subject to the Kern County General Plan and Kern County Zoning Ordinance. The Project would be located on a parcel with a General Plan land use designation of Intensive Agriculture. The Kern County General Plan identifies appropriate uses for land designated Intensive Agriculture to include, but not be limited to, irrigated cropland; orchards; vineyards; horse ranches; raising of nursery stock ornamental flowers and Christmas trees; fish farms; bee keeping; ranch and farm facilities and related uses; one single-family dwelling unit; cattle feed yards; dairies; dry land farming; livestock grazing; water storage; groundwater recharge acres; mineral, aggregate, and petroleum exploration and extraction; hunting clubs; wildlife preserves; farm labor housing; public utility uses; and agricultural industries pursuant to provisions of the Kern County Zoning Ordinance. As a solar facility, the Project is substantially similar to “public utility uses” and therefore falls within the appropriate uses for land designated Intensive Agriculture.

Further, Section 19.12.020 the Kern County Zoning Ordinance lists permitted uses in the Exclusive Agriculture zoning district. As discussed in Section 19.12.020(E), “solar energy electrical generators which are accessory to a permitted or conditionally permitted use and where the power generated does not exceed the total on-site power demand” are a permitted use. “Permitted use” means any use allowed by right in a zoning district and subject to the restrictions applicable to that zoning district (Kern County Zoning Ordinance Section 19.04.555). The term “by-right” use refers to a property owner's use of property and structures in manners consistent with that which is listed as permissible in the zoning district in which his or her property is located. The Project, as described in Section 2, will generate up to 1.3 MW which will only offset the SSJMUD’s energy usage from PG&E under the NEMA tariff and would not exceed the total on-site power demand. Therefore, this project qualifies as a “by-right” permitted use in the Exclusive Agriculture zone.

According to the Kern County Zoning Ordinance Section 19.06.020, “Where there is a question as to the meaning or the intent of any requirement of this title, including interpretations of conditions of approval required in conjunction with the approval of any ministerial or discretionary permit authorized therein, the Planning Director shall provide any necessary interpretation, and the decision of the Planning Director shall be final.” Therefore, the authority to determine whether a Statutory Exemption is appropriate is vested solely with the Kern County Planning Director.

4 Summary

Based on the analysis presented herein, the Project meets all criteria to be Statutorily Exempt from CEQA pursuant to *CEQA Guidelines* Section 15268. The Kern County Zoning Ordinance Section 19.12 allows this facility as a by-right use as it would not exceed the total power demand (i.e., no net export of electricity), thereby making this project a ministerial project per County regulations and therefore statutorily exempt. Therefore, it is concluded pursuant to *CEQA Guidelines* Section 15268 that the Project is ministerial, and thus exempt from further CEQA analysis.

This page intentionally left blank.