


Additional Data Relating To:

Per Section 66434.2 of the Subdivision Map Act, these statements are for informational purposes, describing conditions as of the date of filing and are not intended to affect record title interest.

Conditions of Approval per Notice of Decision - Minor Subdivision 1233-13 & Use Permit 1079-13 - Dated May 14, 2014

- 1. Indemnification:** APPLICANT shall defend, indemnify, and hold San Benito County, its agents, officers, and/or employees (hereinafter "COUNTY") free and harmless from any and all suits, fees, claims, demands, causes of action, proceedings (hereinafter collectively referred to as "Legal Action"), costs, losses, damages, liabilities and expenses (including, but not limited to, an award of attorneys' fees, expert witness fees, and court costs) incurred by COUNTY arising (directly or indirectly) or resulting from the review, processing, consideration, or approval of APPLICANT'S Project or action taken by COUNTY thereon, including Legal Actions based on the negligence of COUNTY. APPLICANT will reimburse COUNTY for any damages, costs, or fees awarded pursuant to any settlement, default judgment, or other judgment taken against the County. Whether the result of Applicant's decision not to defend legal action or otherwise. COUNTY retains its discretion to direct counsel regarding whether to defend, settle, appeal, or take other action regarding any Legal Action. [Planning]
- 2. Lighting:** A note shall be placed on the improvement and construction plans for this project stating: All exterior lighting shall be reviewed to insure that fixtures comply with applicable standards, including but not limited to, County Ordinance 748. [Planning]
- 3. Visual/Glare Buffer:** The applicant shall install vegetation or fence slats along the western and eastern margins of the solar array field to reduce potential for glare to be cast off of the project site. The applicant shall submit a landscape plan or a modified fencing plan to the Planning and Building Department for review and approval prior to issuance of a building permit. The selected mitigation plan shall be implemented by the applicant prior to the first date the proposed project becomes operational.
- 4. Biology:**
- (a) **Nesting Birds:** The Project applicant is responsible for ensuring that implementation of the Project does not result in any violation of the federal Migratory Bird Treaty Act or relevant Fish and Game Codes. If ground-disturbing activities occur during the breeding season (January through August), no more than 10 days prior to the Project commencing, surveys for active nests shall be conducted by a qualified wildlife biologist. The surveys shall be conducted on-site and in a sufficient area around the Project site to identify any nests that are present and to determine their status. A "sufficient area" means any nest within an area that could potentially be affected by the Project in addition to direct impacts, such as nest destruction, nests might be affected by noise, vibration, odors, and movement of workers or equipment. Identified nests shall be continuously surveyed for the first 24 hours prior to any construction related activities to establish a behavioral baseline. Once work commences, all nests shall be continuously monitored to detect any behavioral changes as a result of the Project. If behavioral changes are observed, Applicant shall stop the work causing that change and consult with the Department of Fish and Wildlife and County for additional avoidance and minimization measures. If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500- foot no disturbance buffer around the nests of unlisted raptors shall be established until the breeding season has ended, or until qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival and no re-nesting attempt is observed. Variance from these no disturbance buffers may be implemented when there is compelling biological or ecological reason to do so, as approved by the Department of Fish and Wildlife. Any variance from these buffers shall be supported by a qualified wildlife biologist and the Department shall be notified in advance of implementation of a no disturbance buffer variance.
- (b) **Burrowing Owl.** The applicant shall conduct preconstruction surveys following methodology provided in the DFW staff report set forth at WWW.dfg.ca.gov/Wildlife/nongame/docs/BUOWStaffReport.pdf to identify new potential nest burrows and to establish appropriate no-disturbance buffers to prevent take of this species. If Project-related activities are delayed or suspended for more than 30 days, the area shall be resurveyed. For mitigation to be effective, habitat compensation and enhancement shall be of sufficient scale to provide for the number of Burrowing Owl impacted and to replace the extent of habitat displaced by the Project.
- (c) **General Bird Protection.** Vertical tubes such as solar mounts and chain link fencing poles can result in the entrapment and death of a variety of bird species. All hollow solar mount poles and fence poles shall be capped at the time they are installed to prevent the entrapment and death of birds.
- (d) **California Tiger Salamander:** Prior to commencement of construction, the applicant shall conduct protocol level surveys for CTS. Surveys shall follow current United States Fish and Wildlife Service (USFWS) protocol methods. The results of the protocol-level surveys shall be utilized to evaluate the potential for impacts to the species. Should the Project potentially result in take of this species, take authorization from the Department in the form of an Incidental Take Permit pursuant to Fish and Game Code Section 2081(b) must occur prior to construction. Alternatively and in the absence of protocol surveys, the applicant can assume presence of CTS within the Project area and obtain an ITP.
- (e) **Erosion Control Products to Avoid Wildlife Impacts.** The erosion control and landscaping specifications for the Project shall allow only natural-fiber, biodegradable meshes for use in erosion control mats, blankets, and straw or fiber Wattles.
- (f) **San Joaquin Kit Fox.** The applicant shall implement the 2011 U.S. Fish and Wildlife Service Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance" for pre-construction survey methods and avoidance measures. If take of SJKF is unavoidable, the applicant shall obtain an ITP prior to project implementation in compliance with the California Endangered Species Act.
- (g) **Permeable Fencing.** To further minimize potential impacts to SJKF, the applicant shall maintain permeability or passage through the Project site. Constructing perimeter fencing that would allow for SJKF passage would enable potential SJKF movement through the area and reduce potential impacts to SJKF from further fragmentation of their habitat. Perimeter fences shall be constructed with the bottom strand at a height that allows free movement of SIKF (5 to 7 inches above the ground) and knuckled along the bottom to produce a smooth edge.
- (h) **Vegetation and Rodent Control.** The applicant shall maintain some vegetation for cover for species traversing or otherwise using the Project site. The applicant shall not use any type of rodenticide because they have the potential to directly and indirectly impact State-listed species such as SJKF, which would warrant acquisition of an ITP, and other special-status species such as BUOW
- 5. Air Quality:** A note shall be included in the construction and/or improvement plans to particulate emissions: The contractor shall require Water trucks to operate in conjunction with grading equipment and application of water shall be made as frequently as is necessary to control dust at a minimum of two times a day. The applicant shall submit a construction dust management plan for review and approval by the public works department. The construction dust management plan shall include a provision that if dust is not adequately controlled, additional measures may be enforced and may include limitations to the quantity of grading and excavation, use of chemical soil stabilizers, and a prohibition of grading during periods of high winds. The construction dust management plan shall also include the following provisions:
- (a) Grading shall be limited to 8.1 acres per day, and grading and excavation to 2.2 acres per day if necessary to adequately control dust.

- (b) Water graded and excavated areas at least twice daily or more frequently as required to adequately control dust. Frequency shall be based on the type of operations, soil and wind exposure.
- (c) Apply non-toxic binders (e. g. latex acrylic copolymer) to exposed areas after cut and fill operations, and hydro-seed area as necessary to adequately control dust and/or erosion.
- (d) Cover all trucks hauling dirt, sand, or loose materials.
- (e) Plant vegetative ground cover in the disturbed areas as soon as possible.
- (f) Prohibit all grading activities during periods of high wind (over 15 mph)
- (g) Limit Vehicle speeds on unpaved. [Planning]
- 6. Cultural Resources:** Any properly owner who, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, discovers any human remains of any age, or any significant artifact or other evidence of an archeological site or pale anthropological site shall:
- (a) Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
- (b) Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of no less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals.
- (c) Notify the sheriff-coroner of the discovery if human and/or questionable remains have been discovered. The Planning Department Director shall also be notified. Subject to the legal process, grant all duly authorized representatives of the coroner and Planning Department Director permission to enter onto the property and to take all actions consistent with Chapter 5B of the San Benito County Code and consistent with section 7050.5 of the Health and Human Safety Code and Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code." [Planning]
- 7. Geology:** The applicant shall incorporate all recommendations from the Geotechnical Investigation Hollister Solar Project 1840 Buena Vista Road (36.86225°, -121.42909°) APN: 019-110-022, Hollister California (Neil O. Anderson and Associate, 2014) into the design of the project. Development design shall be consistent with all applicable federal, state and local seismic standards. Building plans and design drawings shall be subject to review and approval by the San Benito County Planning and Building Department for consistency with the recommendations prior to issuance of a building permit.
- 8. Hydrology/Water Quality:** The applicant shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) in compliance with the recommendations in "Developing Your Stormwater Pollution Prevention Plan –A Guide for Construction Sites," prepared by the United States Environmental Protection Agency. Prior to initiation of ground disturbance activities, the applicant shall submit a SWPPP to the San Benito County Planning and Building The SWPPP shall include best management practices that will be utilized to minimize erosion potential and minimize conveyance of eroded soils off of the project site or into on-site surface water features. Best management practices included in the SWPPP shall be included as contractor Work specifications. A QSD/QSP should be retained for the duration of the construction and should be responsible to coordinate and comply with requirements by the Regional Water Quality Control Board, to file Notice of Intent (per Construction General Permit Order No. 2009-0009–DWQ as amended by 2010-0014 DWQ), and to monitor the project as to compliance with requirements until its completion.
- 9. Construction:** A note shall be place on construction plans, improvement plans and added as a condition of approval of the project that states: Director, unless the Planning Director and Owner agree to use updated cost estimates regarding decommissioning provided by a11y other Solar Project within San Benito County.
- (a) "As required by County Ordinance, Construction on the project site shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays."
- (b) "Construction equipment shall be properly maintained and equipped with noise reduction intake and exhaust mufflers and engine shrouds, in accordance with manufactures' recommendations. Equipment engine shrouds shall be closed during equipment operation."
- (c) "Landscape maintenance activities shall be limited to the hours of 7:00am – 7:00pm and shall be prohibited on Sundays and federally recognized holidays." [Planning]
- 10. Decommissioning Plan:** The applicant/property owner shall submit to the County Planning Department for review and approval, a decommissioning plan for the project to ensure if at any time the facility becomes non-operative, all equipment and materials related to the proposed project will be removed from the site. This plan shall include a financial assurance component. In addition, the applicant/property owner shall submit to the County Planning Department, a materials recycling program plan for review and approval. The recycling plan shall be designed to eliminate any solar panel disposal within any landfill and provide evidence that all waste products*generated as a result of the proposed project will be disposed of in compliance with federal, state, and local laws applicable to the proposal. [Planning]
- 10.5. Decommissioning Plan .** The Decommissioning Plan specified in Condition of Approval 10, shall include, at minimum, the following, which are also imposed as conditions of approval:
- (a) Owner shall pay a minimum amount of \$39,750 (see below) to the County to be used as a "Decommission Fund".
- (b) The decommissioning funds shall be deposited as cash in the County Treasury.
- (c) If Owner, its successors or assigns, do not properly decommission the Project or restore the Property to its original condition within a reasonable time following the cessation of business operations or the abandonment of the Project or Property for whatever reason, then the County may use the Decommission Fund to perform the decommission and/or restoration.
- (d) If the Decommission Fund is not adequate to fully decommission the Project or restore the Property, the Owner, its successors, or assigns shall be liable for any amount expended by the County over the Decommission Fund balance.
- (e) The term "reasonable time" as used herein shall mean no more than six (6) months after the County notifies the Owner, its successors, or assigns in writing that decommission of the Project and/or restoration of the Property is required.
- (f) The funds shall be held in a sequestered account and shall be used by the County only for the decommissioning of the Project or the restoration of the Property.
- (g) To the extent that the Owner, its successors, or assigns decommission the Project and/or restore the Property to the County's satisfaction, which shall not be unreasonably withheld, the sequestered fluids, or any unused portion thereof, shall be returned to the current Owner or its designee.
- (h) Payment to the Decommission Fund is due and payable on August 31" to the County Auditor not later than five years after Project commencement. Any Payment received after August 31" will be charged a late payment penalty equal to five percent (5%) of the amount due and owing and will accrue interest at the rate of ten percent (10%) per annum or at the legal rate of interest, whichever is less.

- (i) The Sum of a sum of \$26,500 per MW installed shall be paid, adjusted in accordance with the Consumer Price Index ("CPI"), into the Decommission Fund, which amount shall be fully adjusted for inflation. Every five years, Owner will provide an updated cost estimate of decommissioning costs, which estimate shall be prepared by a firm approved by the Planning
- (j) Upon receipt of the cost estimate showing the need for increased contribution, including but not limited to the need to increase the Decommission Fund due to inflation greater than 2% per year, the Owner shall immediately increase annual contributions by 1/5 of the deficit amount so that the Decommission fund is fully funded according to cost estimate received within five years.
- (k) The Decommission Fund shall be held in the County Treasury, in an account dedicated only for the purposes set forth. All interest earned by deposits within the Decommission Fund shall accrue to the Decommission Fund and used only for those purposes.
- (l) The Decommission Fund shall continue to be held in the County Treasury for the purposes set forth in this agreement until the Property is fully restored to its natural and existing condition, and the remediation has been approved in Writing by the County.
- (m) The Items (a)-(1) above may be revised upon a written decommissioning agreement between Owner and the County.
- 11. Agreement with all conditions of approval:** Prior to or upon approval by the Planning Commission, Applicant shall sign the statement below certifying that Applicant is in agreement with all conditions of approval. I certify that I understand and agree to comply with all Conditions of Approval imposed by the Planning Commission, or Board of Supervisors as applicable, on this Permit.
- Applicant Signature:  Date: 6/26/14
- 12. Fire Requirements:** Any and all development on this property shall be required to meet the standards set forth in the latest editions of the 2010 California Fire Code, Public Resources Code 4290 and 4291. Ordinances 822 and 823 of the San Benito County Code and other related codes as they apply to a project of this type and size. [Fire]
- 13. Lot Design:** The applicant shall submit a 'final' tentative map design depicting the southern most property line of parcel 2 matching the southern most property line of the parent parcel.
- 14. Dedication:** Prior to recordation of the Parcel Map, the applicant shall make the following irrevocable offers of dedication to San Benito County and the public for public use: Half of 84 foot right-of-way along the entire frontage of Buena Vista Road.
- 15. Roadway Improvements:** Prior to recordation of the Parcel Map the applicant shall bond for or make the following roadway improvements: Half of 64 foot AC on 66 foot road bed (AB) with standard curb, gutter and sidewalk (City of Hollister Standards) along the entire property frontage of Buena Vista Road.
- 16. Geotechnical Report (Minor Subdivision):** Prior to recordation of Parcel Map, a comprehensive design-level geotechnical engineering investigations report shall be submitted for review by Public Works Department, and the same (once reviewed and accepted) shall be the basis of the design of any proposed improvements Within the property including the required widening for Buena Vista Road. Prior to acceptance of required improvements, a letter of geotechnical compliance shall be submitted to Public Works Department upon completion of site improvements. A note shall be placed on the parcel map referencing the aforementioned reports for future reference by potential property owners. [\$23. 31. 023]
- 17. Improvement Plans:** As part of submission of engineered improvement plans for this project, the applicant shall comply with County Drainage Standards and provide erosion control details for the project. Included in this will be drainage calculations and construction details for either a retention or detention pond for impermeable surfaces created as part of this project. Details and direction of flows of drainage swales and grades shall also be included. All drainage improvements must be installed in conjunction with any improvements that would create impermeable surfaces as part of this project.
- 18. Utilities:** All proposed utilities within the subdivision and along peripheral streets shall be placed underground except those facilities exempted by Public Utilities Commission regulations [§23. 17. 003 (F)]. All necessary utilities must be installed or bonded for prior to recordation of the Parcel Map.
- 19. Encroachment Permit:** Pursuant to § 19.27.00-4 of the County Code, the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County Right-of-Way or any road offered for dedication to the County prior to commencement of any improvements associated with this project.
- 20. "As Built" Improvement Plans:** Prior to the recordation of the Parcel Map or before release of alternate Bond, one set of "As Built" Improvement Plans on a suitable reproducible media shall be prepared by the applicant's engineer and delivered to the Public Works Department. [§23.31.002.(K)(l)]
- 21. Drainage Calculations:** Applicant shall comply with County Drainage Standards. Applicant shall submit confirmation by means of hydraulic calculations the sufficiency of the swale to mitigate the runoff created as part of this project. Applicant may also supplement the swale by providing detention/retention pond if necessary.
- 22. Vegetative Buffers:** Applicant shall install vegetation buffers along Western and Eastern margins of the Solar Array field.

MS # 1233-13
Amended*

Parcel Map

Portion of Homestead Lot 19 of the Rancho San Justo
as shown on that map thereof filed in Book 1 of Maps,
Page 64, San Benito County Records
lying within the unincorporated territory of
The County of San Benito, State of California

July 2014

Job No. 213038



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