

ATTACHMENT C

DRAFT

USE PERMIT AND CONDITIONS OF APPROVAL GIBSON RENEWABLES SOLAR FARM ZONE FILE #2020-0043

ON-GOING OR OPERATIONAL CONDITIONS OF APPROVAL:

PLANNING DIVISION (530) 666-8803

1. The project shall be developed in compliance with all adopted Conditions of Approval approved for Zone File #2020-0043 and the standard development requirements described in the County's Solar Energy Systems Ordinance in Sec. 8-2.1104 of the Yolo County Code. The Applicant shall be responsible for all costs associated with implementing the Conditions of Approval as contained herein.
2. Development of this site, including installation and/or placement of structures, shall be as described in this staff report for this Use Permit (ZF2020-0043). The project consists of the construction of a large-scale solar energy system, coupled with a battery energy storage system (BESS). Installation of the solar energy system and BESS shall be limited to the specific areas of the property as shown in the Applicant's approved Site Plan (see Att. B of the Staff Report), and as otherwise amended by approval of the Board of Supervisors. The project consists of the construction and operation of an up to 20-megawatt (MW) solar photovoltaic (PV) electricity generating facility with a 6.5MWac/26 megawatt hour (MWh) to 13 MWAC/52 MWh Battery Energy Storage System (BESS), occupying up to 147 acres on APN: 049-100-035.
3. Any minor modification or expansion of the approved solar energy system facility shall be consistent with the purpose and intent of this Use Permit and shall be approved through Site Plan Review or a Use Permit Amendment, as determined by the Director of Community Services. The facility shall be operated in a manner consistent with the project's approval.
4. This Use Permit shall commence within two years from the date of the Board of Supervisors' approval or said permit shall be null and void. The Planning Commission may grant an extension of time if the request for extension is found to be consistent with the intent of the original approval.
5. Assessment of fees under Public Resources Code Section 21089, and as defined by Fish and Game Code Section 711.4 will be required. The fees (\$3,839.25 plus a \$50 Recorder fee) are payable by the project Applicant upon filing of the Notice of Determination by the lead agency, within five working days of approval of this project by the Board of Supervisors.
6. The project shall be operated in compliance with all applicable federal and state laws, including Yolo County Code regulations and applicable Public Utilities Commissions standards.

7. This permit is not valid until the expiration of the 15-day appeal period from the date of the Board of Supervisors' final action pursuant to Section 8-2.225 of the Yolo County Code.
8. The proposed Project is not a covered activity detailed in Chapter 3 of the Yolo Habitat Conservancy's Habitat Conservation Plan Natural Community Conservation Plan (HCP/NCCP). Non-covered projects must comply with Federal and State Endangered Species Act requirements as applicable. If a project has the potential to take a federally or state-listed species, the Applicant must contact the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and/or the California Department of Fish and Wildlife to determine whether a permit is necessary.
9. Noise levels generated from the solar energy system, BESS, components, and associated ancillary equipment shall not exceed a noise level of 60 dBA as measured at the property line of the nearest offsite residence. [Refer to Countywide General Plan Health and Safety Policy HS-7.4]
10. To the extent reasonably practicable, the solar energy system shall have a visual buffer of native vegetation at the northern parcel boundary that provides a visual screen to soften the view of the solar energy system from the public right-of-way. Vegetation shall be derived from source-identified plant materials whose origin includes Yolo County and surrounding counties [Yolo County Code Sec. 8-2.1104(h)(7)].
 - The BESS shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other methods that will harmonize with the character of the property and surrounding area [Yolo County Code Sec. 8-2.1105(e)(8)].
11. Any signage posted, both onsite and off-site, shall comply with the County's Sign Ordinance regulating the placement, size, and height of such signs [Yolo County Code Sec. 8-2.1201-1209].
12. The solar facility shall be designed to minimize any glare or lighting on adjacent neighbors, the public right-of-way, and the night sky. Any lighting installed for maintenance and security shall be low-level lighting that is shielded and directed downward to minimize the potential for glare or spillover.
13. To the extent feasible, all disturbed soils and unpaved roads during construction activities shall be adequately watered to keep soil moist to provide fugitive dust control, per the Yolo-Solano Air Quality Management District requirements, and as proposed in the Applicant's Project Description.
14. The property owner and/or operator(s) shall maintain the site in such a manner, and with such frequency, to insure for public health, safety, and general welfare.
15. Upon termination of the solar energy system facility and battery energy storage system (BESS), decommissioning shall begin no later than 12 months after the system has ceased to generate electricity. The solar energy system and all associated and components shall be removed, including buried electrical conduit and all concrete

foundations. A collection and recycling program shall be executed to minimize disposal of the proposed Project components in landfills. The project site shall be restored to agricultural uses or converted to another use in accordance with the Yolo County Code within 180 days of cessation of all uses.

16. Should the solar energy system cease to produce electricity on a continuous basis for 18 months, the facility shall be considered abandoned, unless a Use Permit Amendment has been initiated by the Applicant to upgrade or otherwise continue the use of the system. Upon determination of abandonment, the County shall send a notice to the owner/operator, indicating that the responsible party shall remove the solar energy system and all associated facilities, and remediate the site to its approximate original condition within 90 days of notice by the County.

In the event that the responsible party has failed to remove the solar energy system and/or restore the facility site within the specified time period, the County may remove the solar energy system and restore the site, and may thereafter initiate judicial proceedings or take any other steps authorized by law to recover costs associated with the removal of structures deemed a public hazard.

17. Prior to the issuance of a building permit authorizing installation of the Gibson Farm solar energy system, the Applicant shall provide a demolition surety bond in a form and amount deemed by the County to be sufficient to remove and dispose of the solar energy system and BESS, and restore the site to its approximate preconstruction condition. The County shall draw upon this bond in the event the responsible party fails to act within 90 days of termination of operations, or upon determination by the County that the system is unsafe, has been abandoned, or is in violation with the County Code. The bond shall remain in effect until the solar energy system is removed. The Director of Community Services may adjust the value of the bond periodically, but no more often than once every five years, to account for increases in the costs needed to remove and dispose of the system and restore the site.

18. The Applicant shall agree to indemnify, defend, and hold harmless the county or its agents, officers and employees from any claim, action, or proceeding (including damage, attorney fees, and court cost awards) against the County or its agents, officers, or employees to attach, set aside, void, or annul an approval of the county, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations.

The county shall promptly notify the Applicant of any claim, action or proceeding and that the county cooperates fully in the defense. If the county fails to promptly notify the Applicant of any claim, action, or proceeding, or if the county fails to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold the county harmless as to that action.

The county may require that the Applicant post a bond in an amount determined to be sufficient to satisfy the above indemnification and defense obligation.

19. Failure to comply with the Conditions of Approval as approved by the Yolo County Board of Supervisors may result in non-issuance of future building permits or legal action.

STANDARD DEVELOPMENT REQUIREMENTS

20. To the extent feasible, the solar energy system and accompanying BESS shall be integrated into the agricultural landscape by maintaining a substrate with a plant palette that supports ecological function and encourages and maintains wildlife use. Native vegetation shall be derived from source-identified plant materials whose origin includes Yolo County and surrounding counties [Yolo County Code Sec. 8-2.1104(h)(2)].
21. The solar facility will be required to maintain a minimum setback of at least 50 feet from any property line [Yolo County Code Sec. 8-2.1104(h)(5)].
 - The BESS shall comply with both the setback requirements and height limitations of the Agricultural Intensive (A-N) zone [Yolo County Code Sec. 8-2.1105(e)(6) and (7)].
22. The solar energy system and BESS shall be located no closer than 100 feet from any residential dwelling on an adjacent property [Section 8-2.1104(h)(6)].
23. The areas within 10 feet on each side of the BESS shall be cleared of combustible vegetation and other combustible growth [Yolo County Code Sec. 8-2.1105(e)(4)].
24. The internal access roads shall be developed and maintained for all-weather, year-round access to offset localized flooding at the site.

THE FOLLOWING MITIGATION MEASURES (MM) HAVE BEEN ADOPTED AS CONDITIONS OF APPROVAL

PRIOR TO LAND DISTURBANCE OR ISSUANCE OF A GRADING OR BUILDING PERMITS:

22. **MM AG-1. Farmland Conservation Easement.** Mitigation for the permanent loss of agricultural land will comply with Yolo County Code Section 8 2.404 (the Agricultural Conservation and Mitigation Program), which requires the acquisition of an agricultural preservation easement at a ratio between 1:1 and 3:1, depending on the location of the easement areas.
23. **MM AG-2. Williamson Act Incompatibility.** Avoid the incompatibility with the Williamson Act by:
 - (1) Non-renewing the Williamson Act contract and delaying the Project until the nine-year non-renewal period has lapsed; or
 - (2) Canceling the Williamson Act contract by making the necessary findings; or
 - (3) Determining that the Project is a compatible “electric facility” use under Government Code section 51238(a)(1).

24. **MM BIO-1. Avoid Construction and Decommissioning-related Disturbances to Active Swainson's Hawk Nest.** To avoid this impact, construction and decommissioning should occur during the nonbreeding season, September 1 to March 15, unless it is determined that the nest is inactive or young have fledged during the construction/demolition year. If construction/decommissioning is scheduled to occur during the breeding season (March 15 to August 30), surveys should be conducted prior to project activities to determine activity at the nest site. If the nest is active, a 1,320 foot no-disturbance buffer should be established around the nest to minimize disturbance. Alternatively, an incidental take permit may be sought in consultation with CDFW pursuant to Section 2080 of the state endangered species act. Doing so, however, will require additional compensatory mitigation to be specified by CDFW during the consultation. Because there are no other potential nest trees within 1,320 feet of the project site, no other preconstruction (or pre-demolition) surveys for Swainson's hawk or white-tailed kite are necessary.
25. **MM CUL-1. Worker Environmental Awareness Program.** Prior to the initiation of construction, all construction personnel shall be trained by a qualified archaeologist meeting federal criteria under 36 CFR 61 regarding the recognition of possible buried cultural resources (i.e., prehistoric and/or historical artifacts, objects, or features) and protection of all archaeological resources during construction. Training shall inform all construction personnel of the procedures to be followed upon the discovery of cultural materials. All personnel shall be instructed that unauthorized removal or collection of artifacts is a violation of State law. Any excavation contract (or contracts for other activities that may have subsurface soil impacts) shall include clauses that require construction personnel to attend the Workers' Environmental Awareness Program, so they are aware of the potential for inadvertently exposing buried archaeological deposits.
26. **MM CUL-2. Inadvertent Discovery of Historical Resources, Unique Archaeological Resources or Tribal Cultural Resources.** If previously unidentified cultural resources are uncovered during construction activities, construction work within 50 feet of the find shall be halted and directed away from the discovery until a Secretary of the Interior qualified archaeologist assesses the significance of the resource. The archaeologist, in consultation with the County, the Yocha Dehe Wintun Nation, and any other responsible public agency, shall make the necessary plans for treatment of the find(s) and for the evaluation and mitigation of impacts if the find(s) is found to be eligible to the National or California Registers, qualify as a unique archaeological resource under CEQA (PRC §21083.2), or is determined to be tribal cultural resource as defined in PRC §21074.
27. **MM CUL-3. Treatment of Human Remains.** All human remains discovered are to be treated with respect and dignity. Upon discovery of human remains, all work within 50 feet of the discovery area must cease immediately, nothing is to be disturbed, and the area must be secured. The County Coroner's Office must be called. The Coroner has two working days to examine the remains after notification. The appropriate land manager/owner of the site is to be called and informed of the discovery. It is very important that the suspected remains, and the area around them, are undisturbed and the proper authorities called to the scene as soon as possible, because it could be a crime scene. The Coroner would determine if the remains are archaeological/historic or of modern origin and if there are any criminal or jurisdictional questions.

After the Coroner has determined that the remains are archaeological/historic-era, the Coroner would make recommendations concerning the treatment and disposition of the remains to the person responsible for the excavation, or to his or her authorized representative. If the Coroner believes the remains to be those of a Native American, he/she shall contact the Native American Heritage Commission (NAHC) by telephone within 24 hours.

The NAHC would immediately notify the person it believes to be the most likely descendant (MLD) of the remains. The MLD has 48 hours from the time given to access the site to make recommendations to the landowner for treatment or disposition of the human remains. If the descendant does not make recommendations within 48 hours, the landowner shall reinter the remains in an area of the property secure from further disturbance. If the landowner does not accept the descendant's recommendations, the owner or the descendant may request mediation by NAHC.

According to the California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and willful disturbance of human remains is a felony (Section 7052).

28. **MM PAL-1. Inadvertent Paleontological Find.** Although highly unlikely, should any significant paleontological resources (e.g., bones, teeth) be unearthed, construction activities should be diverted at least 15 feet from the find until a professional paleontologist has assessed the find and, if deemed significant, salvaged it in a timely manner. Collected fossils should be deposited in an appropriate repository, such as the University of California Museum of Paleontology (UCMP), where they will be properly curated and made available for future research.

PLANNING DIVISION – (530) 666-8803

29. Prior to any land disturbance such as grading, contractors shall be notified that they are required to watch for potential archaeological sites and artifacts, and to notify the Yolo County Community Services Director if anything is found. If any cultural resources, such as chipped or ground stone, historic debris, building foundations, or paleontological materials are encountered during grading, all work within 75 feet shall immediately stop and the Community Services Director shall be immediately notified. Any cultural resources found on the site shall be recorded by a qualified archaeologist and the information shall be submitted to the Community Services Department. In accordance with Section 7050.5 of the California Health and Safety Code, if human skeletal remains are encountered during construction, all work within 75 feet shall immediately stop and the County Coroner shall be notified within 24 hours. If the remains are of Native American Heritage origin, the appropriate Native American community, as identified by the Native American Heritage Commission, shall be contacted and an agreement for relocating the remains and associated grave goods shall be developed.
30. In addition to the above standard condition, should subsurface cultural resources be encountered during any project construction, including grading and land clearing activities, construction shall be halted until the Yocha Dehe Wintun Nation can be notified, and, in consultation with their designated monitors, the site shall be evaluated

for cultural significance and to determine property disposition of any artifacts or culturally sensitive resources.

ENVIRONMENTAL HEALTH DIVISION (530) 666-8646

31. The collection of used biodegradable dielectric fluid and mineral oil from the transformers and miscellaneous electrical equipment are considered hazardous materials and shall not be stored on-site, but instead, delivered to a recycling company at the time it is removed from the equipment. Please see Item #33 below regarding handling hazardous materials.
32. All O&M personnel and emergency response departments shall be trained on the manufacturer's emergency response guide in the event that a leak occurs in the lithium iron phosphate (LFP) battery.
33. Prior to handling hazardous materials in quantities greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet for compressed gases a Hazardous Materials Business Plan (HBMP) must be completed and submitted to Yolo County Environmental Health (YCEH). Starting January 1, 2013, this must be done by going to the California Environmental Reporting System (CERS) web site (<http://cers.calepa.ca.gov/>), to create an account, enter required hazardous materials information, and submit the information for approval by YCEH. For assistance with CERS, please visit our web site at <http://www.yolocounty.org/community-services/environmental-health-services/hazardous-materials> or call YCEH at (530) 666-8646 and ask to speak to a Hazmat Specialist.

If a facility only generates below reportable quantities of hazardous waste, it is not required to submit a HMBP in CERS, but the facility will be regulated by our Hazardous Materials (CUPA) program. Please contact our office and ask to speak to a Hazmat Specialist. The reporting thresholds for certain gases are higher, and that for extremely hazardous materials or radiological materials are lower. Please call our office and ask to speak to a Hazmat Specialist.

34. Portable toilets meeting OSHA requirements must be provided to employees during construction and decommissioning activities. Portable toilets must be located at least 50 feet from any water well, at least 25 feet from any unlined canal, and at least 15 feet from any lined canal. The construction permit site plan should include the proposed location of the portable toilets and demonstrate that applicable setbacks are met.
35. According to YCEH's records, there is an existing irrigation well on the parcel. If the property owner is not using this well and has no intention to use this well in the future, the well must be destroyed by C-57 licensed well contractor under a YCEH abandonment permit

YOLO-SOLANO AIR QUALITY MANAGEMENT DISTRICT – (530) 757-3665

36. The Yolo-Solano Air Quality Management District requires an Authority to Construct (ATC) and Permit to Operate (PTO) for any emergency engines rated over 50

horsepower prior to construction. This also includes back-up electrical generators and emergency fire pumps.

CA DEPARTMENT OF TRANSPORTATION (CALTRANS) - (530)741-4507

37. **Encroachment Permit.** A Caltrans District 3 encroachment permit will be required for any work done on the state right of way. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to:

Hikmat Bsaibess
California Department of Transportation
District 3, Office of Permits
703 B Street
Marysville, CA 95901

Please see [Encroachment Permit Manual, Road Connections and Driveways - Appendix J.](#)

38. **Hydraulic.** The developer must maintain or improve existing drainage patterns and/or facilities affected by the proposed project to the satisfaction of the State and Caltrans. This may be accomplished through the implementation of stormwater management Best Management Practices (i.e., detention/retention ponds or basins, sub-surface galleries, on-site storage and/or infiltration ditches, etc.). Once installed, the property owner must adequately maintain these systems. The proponent/developer may be held liable for future damages due to impacts for which adequate mitigation was not undertaken or sustained.

Runoff from the proposed project that will enter the State's highway ROW and/or Caltrans drainage facilities must meet all regional water quality control board water quality standards before entering the State's highway ROW or Caltrans drainage facilities. Appropriate stormwater quality Best Management Practices may be applied to ensure that runoff from the site meets these standards (i.e., is free of oils, greases, metals, sands, sediment, etc.). Once installed, the property owner must adequately maintain these systems in perpetuity.

39. **Highway Operations.** One driveway access has been identified to the project site along State Route (SR) 16, which is located along the northwestern boundary of the property. No other driveway will be permitted during the construction along this route. The existing driveway access to the proposed project will also need to be upgraded to Caltrans commercial standards. See the section above regarding Encroachment Permits.

ESPARTO FIRE PROTECTION DISTRICT

40. Per Policy PF-5.9 of the 2030 Countywide General Plan, the Applicant is required to obtain a "will-serve" letter from the Esparto Fire Protection District confirming the ability to provide fire protection services to the Project, prior to each phase.

BUILDING DIVISION (530) 666-8037

41. All building plans shall be submitted to the Department of Community Services for review and approval in accordance with County Building Standards prior to the commencement of any construction.
42. The Applicant shall pay all appropriate fees prior to the issuance of Building Permits, including but not limited to the Esparto Unified School District fees, Esparto Fire District fees, and County facility fees.
43. Site access for fire engines shall be coordinated with the local Fire District Chief.

PUBLIC WORKS DIVISION (530) 666-8775

44. The Applicant shall provide a hydrology/hydraulic report, signed and sealed by a professional civil engineer licensed in the State of California that demonstrates onsite detention/retention of runoff exceeding the predevelopment condition utilizing a 100-year design storm event, complies with Section 9 Storm Drainage of the Yolo County Improvements Standards and uses methods outlined in the Yolo County City/County Drainage Manual. The report will be submitted for review and approval by the County Engineer prior to building permit issuance. Conclusions need to discuss the upstream and downstream impacts caused by the development of the project (planned, full build out) and how the improvements mitigate it in accordance with the standards.
45. Prior to grading or building permit issuance, Applicant shall record any drainage easements and/or public utility easements necessary to protect drainage facilities and utilities from future development after completion of the project. Provide copies of documents recorded by the County Recorder to the Public Works Division for record information on the parcel.
46. Prior to grading/building permit issuance, an operations and maintenance plan (O&M plan) shall be submitted for Public Works review that ensures the onsite storm drainage facilities will receive appropriate annual and routine inspections, maintenance, and operation (including, but not limited to, basins, ditches, bioswales, pipelines, etc. (can be as brief as one page, but specific on how the owner is to maintain the storm water system going forward).
47. If the development disturbs one acre or more of land, the developer must obtain coverage under California's "National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (State General Permit)" for controlling construction activities that may adversely affect water quality. State General Permit coverage requires preparation of a Storm Water Pollution Prevention Plan (SWPPP). The developer shall provide Yolo County its State-issued Waste Discharge Identification Number (WDID #), and pay associated fees, prior to issuance of a County building or grading permit.
48. Driveway visibility shall be maintained per Yolo County Improvement Standards Drawing # 4-13 at a minimum. Landowners are responsible for tree maintenance along the property frontage to County roads.

49. Signs associated with the business are not permitted in County Road Right-of-Way.
50. The Applicant shall provide ongoing maintenance of gravel parking areas and access roads, including but not limited to, stabilizing any areas that have eroded, preventing the downstream conveyance of sediment, and providing dust control.
51. County roads shall not be used for event/business/operations parking.
52. The Applicant shall file a Record of Survey, prepared by a licensed surveyor in the State of California, whenever any of the following instances occur:
 - a. A legal description has been prepared that is based upon a new field survey disclosing data that does not appear on any previously filed Subdivision Map, Parcel Map, Record of Survey, or other official map.
 - b. Permanent monuments have been set marking any boundary.

YOLO COUNTY DEPARTMENT OF AGRICULTURE – (530) 666-8140

53. The Apiary Operator or other responsible party shall complete an Apiary Registration Form and submit to the Yolo County Department of Agriculture in order to comply with the law requiring every person/entity in possession of an apiary to register the number of colonies in each apiary and detail the location of the apiary, as well as pay the required fees to the Agricultural Commissioner.

Prior to applying pesticides which are toxic to honeybees to a blossoming plant, the person performing the pest control shall inquire of the Agricultural Commissioner whether there are any beekeepers with apiaries within one mile of the application site that have requested notice of such application. Beekeepers requesting notification are typically notified at least 48 hours prior to the intended application.

The County's Apiary Program entails the enforcement of laws and regulations pertaining to the registration and identification of apiaries, notice of apiary movements, protection against pesticide injury and theft, apiary health and colony strength certification. For more information, please refer to the Apiary Inspection webpage here.

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD – (916) 464-4812

54. Construction Storm Water General Permit

Dischargers whose project disturbs one or more acres of soil are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at: http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml