

Proof of Service by Mail

(Code of Civil Procedure § 1013a)

I, Hana Cesar, declare as follows:

1. I am over 18 years of age and not a party to the matter connected with this proof of service.
2. I am employed by the County of Fresno in the office of the Clerk of the Board of Supervisors, at 2281 Tulare Street, Room 301, in Fresno, California 93721.
3. On April 18, 2023, I served the attached Notice of Hearing before the Board of Supervisors of the County of Fresno on Partial Cancellation of Agricultural Land Conservation No. 1152 (RLCC NO. 1042)
4. I served the documents by enclosing them in an envelope and placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelopes were addressed and mailed to each of the owners at their addresses, as shown on the current Fresno County Assessment Roll and on the property list compiled from said rolls, as set forth on the attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this 18th day of April 2023, in Fresno, California.



Deputy, Clerk of the Board

The original proof of service, including the list of persons and their addresses to whom notice was mailed, is maintained by Public Works staff.



County of Fresno

BOARD OF SUPERVISORS

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Notice of Public Hearing

Notice of hearing before the Board of Supervisors of the County of Fresno on **PARTIAL CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 1152 (RLCC NO. 1042).**

Notice is hereby given that the Board of Supervisors of the County of Fresno has set this hearing for **Tuesday, the 9th day of May 2023**, at the hour of **9:30 A.M. (or as soon thereafter as possible)**, in the **Board of Supervisors Chambers**, Room 301, Hall of Records, 2281 Tulare St., Fresno, California, as the time and place for holding a public hearing on the following matter:

To consider petition for PARTIAL CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 1152 (RLCC NO. 1042) to remove a 40.00-acre parcel from the Williamson Act contract to allow a solar electrical generation facility to be developed on the subject parcel as the alternative use. The subject parcel is located on the north side of Manning Avenue, between Interstate 5 and Fairfax Avenue, approximately thirteen miles southwest of the nearest city limits of the City of Mendota (APNs 027- 121-15s) (Sup. Dist.1).

Please see the attached map

For information, contact **Jordan Walton**, Department of Public Works and Planning, 2220 Tulare Street, (Corner of Tulare & "M" Streets, Suite A), Fresno, CA 93721, telephone **(559) 600-9668**.

The full text of this Public Hearing will be available on the Fresno County website <https://fresnocounty.legistar.com/Calendar.aspx> under the May 9, 2023, meeting at the Meeting Details link by Wednesday, May 3, 2023.

PROGRAM ACCESSIBILITY AND ACCOMMODATIONS: The Americans with Disabilities Act (ADA) Title II covers the programs, services, activities, and facilities owned or operated by state and local governments like the County of Fresno ("County"). Further, the County promotes equality of opportunity and full participation by all persons, including persons with disabilities. Towards this end, the County works to ensure that it provides meaningful access to people with disabilities to every program, service, benefit, and activity, when viewed in its entirety. Similarly, the County also works to ensure that its operated or owned facilities that are open to the public provide meaningful access to people with disabilities.

To help ensure this meaningful access, the County will reasonably modify policies/ procedures and provide auxiliary aids/services to persons with disabilities. If, as an attendee or participant at the meeting, you need additional accommodations such as an American Sign Language (ASL) interpreter, an assistive listening device, large print material, electronic materials, Braille materials, or taped materials, please contact the Current Planning staff as soon as possible during office hours at **(559) 600-4230** or at **jpotthast@fresnocountyca.gov**. Reasonable requests made at least 48 hours in advance of the meeting will help to ensure accessibility to this meeting. Later requests will be accommodated to the extent reasonably feasible.

NOTES:

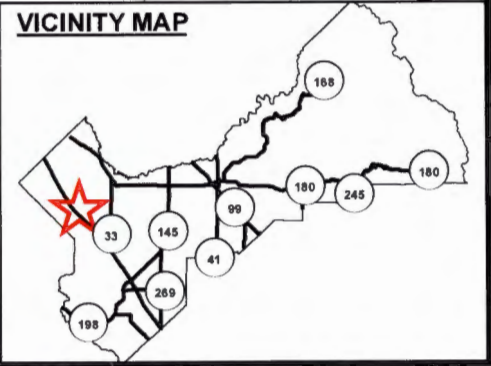
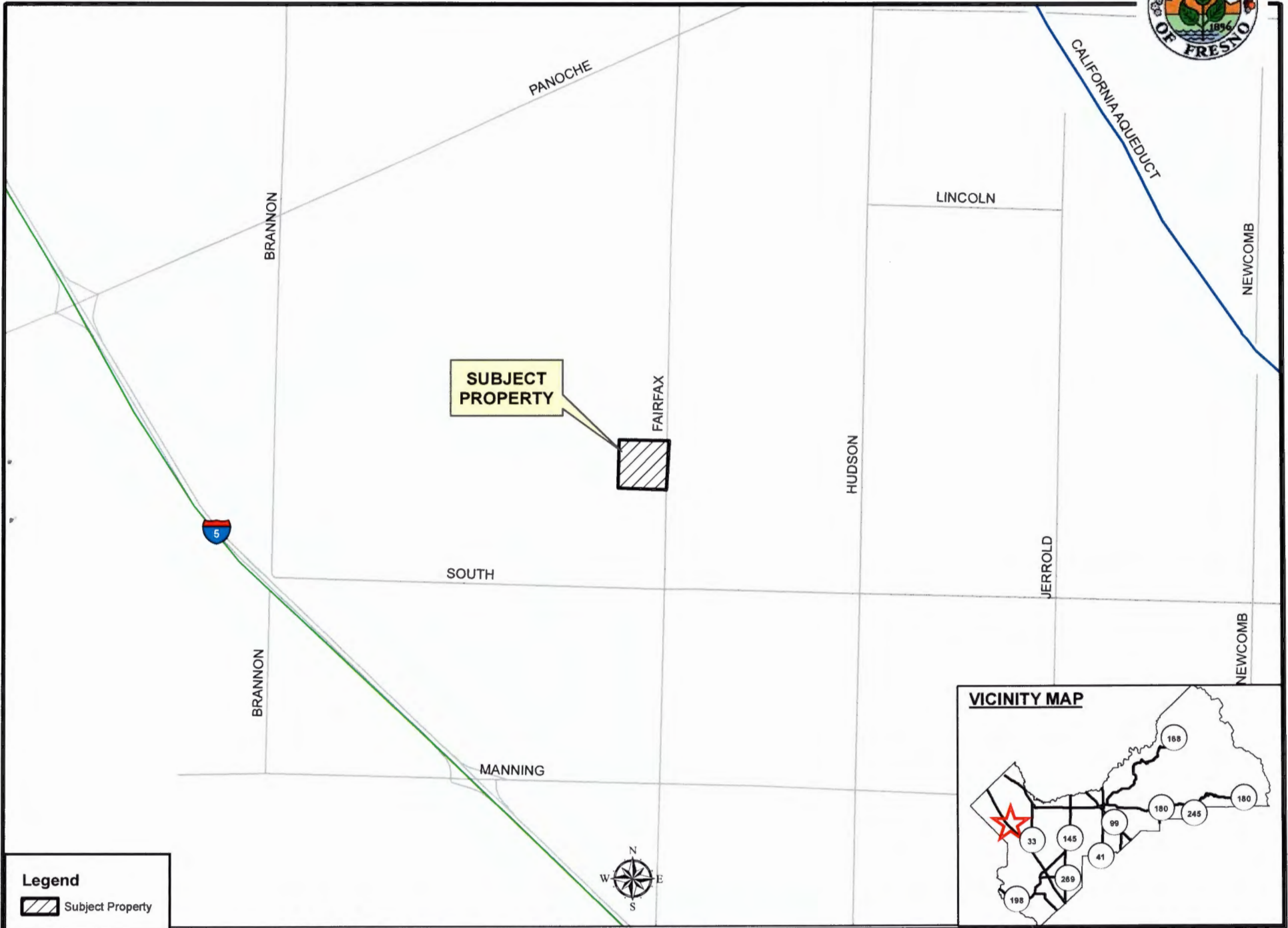
- Anyone may testify, please share this notice with your neighbors or anyone you feel may be interested.
- The Board of Supervisors will also accept written testimony such as letters, petitions, and statements. In order to provide adequate review time for the Board of Supervisors, please submit these documents to the Clerk to Board prior to the hearing date.
- If at some later date you challenge the final action on this matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Board of Supervisors at, or prior to, the public hearing.

DATED: April 18, 2023


BERNICE E. SEIDEL
Board of Supervisors

By , Deputy

LOCATION MAP



Legend

 Subject Property

THE BUSINESS JOURNAL

FRESNO ■ KINGS ■ MADERA ■ TULARE

P.O. Box 126

Fresno, CA 93707

Telephone (559) 490-3400

(Space Below for use of County Clerk only)

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

NOTICE OF PUBLIC HEARING

PARTIAL CANCELLATION OF AGRICULTURAL LAND
CONSERVATION CONTRACT NO. 1152 (RLCC NO. 1042)

DATE OF PUBLIC HEARING:

MAY 9, 2023

DECLARATION OF PUBLICATION (2015.5 C.C.P.)

MISC. NOTICE

STATE OF CALIFORNIA

COUNTY OF FRESNO

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of **THE BUSINESS JOURNAL** published in the city of Fresno, County of Fresno, State of California, Monday, Wednesday, Friday, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Fresno, State of California, under the date of March 4, 1911, in Action No. 14315; that the notice of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

APRIL 21, 2023

NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN THAT the Board of Supervisors ("Board") of the County of Fresno ("County") will hold a public hearing on May 9, 2023 in the Board Chambers, Hall of Records, Third Floor, 2281 Tulare Street, Fresno, California, 93721, to consider a petition for PARTIAL CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 1152 (RLCC NO. 1042) to remove a 40.00-acre parcel from the Williamson Act contract to allow a solar electrical generation facility to be developed on the subject parcel as the alternative use. The subject parcel is located on the north side of Manning Avenue, between Interstate 5 and Fairfax Avenue, approximately thirteen miles southwest of the nearest city limits of the City of Mendota (APNs 027- 121- 15s) (Sup. Dist. 1). A copy of the Board agenda materials, including the RLCC No. 1042 staff report, will be made available for public review, commencing on or about the Wednesday immediately before the applicable Board public hearing date at the office of the Clerk of the Board of Supervisors ("Clerk"), at the above address for the Board Chambers, on County business days between the hours of 8:00 AM and 5:00 PM, and on the County's Internet web site at <https://fresnocounty.legistar.com/Calendar.aspx>

Anyone may attend the public hearing and meeting of the Board and make any oral or written presentations at that time. In addition, if you wish to submit any written comments to the Board on this matter in advance of the hearing, you may deliver those comments, either personally or by mail, to the Clerk at the above address. If you wish to present any such written comments to the Board, you are encouraged to do so sufficiently in advance of the public hearing so that County staff and the Board can have enough time to take your comments into consideration in advance of the Board hearing. If you have any questions concerning this notice, please contact Jordan Walton, Department of Public Works and Planning, at (559) 600-9668, email jowalton@fresnocountyca.gov. Bernice E. Seidel, Clerk of the Board of Supervisors County of Fresno Date: May 9, 2023 04/21/2023

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Fresno, California,

APRIL 21, 2023

ON



Item #15
5/9/23

From: Thomas Kobayashi <Thomas.Kobayashi@qkinc.com>
Sent: Thursday, May 4, 2023 10:05 AM
To: Clerk/BOS
Cc: Jaymie Brauer; abigail.bowdish@whitepinerenew.com; Michael Kremer; Evan Riley; Lawrence Westerlund
Subject: Board of Supervisors May 9, 2023 Hearing - Agenda Item No. 15
Attachments: White Pine Support Letter-IBEW.pdf; ALCC 3-8-23 Staff's Response.pdf; ALCC 3-8-23 Denial Response Memo.pdf

CAUTION!!! - EXTERNAL EMAIL - THINK BEFORE YOU CLICK

Good morning,

On behalf of the applicants for Agenda Item No. 15 (Partial cancellation of Agricultural Land Conservation Contract No. 1042) that is scheduled to be taken before the Board of Supervisors at the scheduled hearing for May 9, 2023, we respectfully submit the attached documents for the record and request that these documents be made available for consideration by the Board of Supervisors.

The two documents titled with ALCC were documents submitted to the ALCC during their hearing on March 8, 2023 by the applicant in response to the prepared staff report and by County staff in rebuttal to the applicant's response. We saw that these documents were not included in the attachments for the Board agenda item and respectfully submit these documents to provide the full record.

The next attached document is a letter from the International Brotherhood of Electrical Workers (IBEW) Local 100 expressing their support for the project.

If you can please provide confirmation of receipt of these documents, it would be greatly appreciated. If there are any questions or concerns, please do not hesitate to contact me.

Sincerely,

Thomas Kobayashi
Senior Associate Planner
601 Pollasky Avenue, Suite 301
Clovis, CA, 93612
(559) 449-2400 Office
(559) 906-0203 Mobile
www.QKinc.com

We're on LinkedIn! Join the conversation [here](#).



Engineering | Land Surveying | Planning | Environmental | Landscape Architecture | Construction Management

Date: March 8, 2023

To: Chairman and members of the Agricultural Land Conservation Committee

From: Policy Planning Unit Staff

Subject: Response to the memo sent to the ALCC by the applicant regarding RLCC 1042

This memo is County staff's response to the memo addressed to the Committee regarding staff report for RLCC 1042.

Regarding Finding No.2, the applicant has stated that the soil quality of the subject site as Prime, the availability of the irrigation water and the active farming operation on the surrounding parcels are not relevant.

Staff would like to note that these factors indicate that the subject parcel is capable of being actively farmed similar to the neighboring parcels that are being actively farmed. The parcel has not been farmed because the landowner chose not to farm it.

The proposed electrical power plant is unrelated to farming operations that exists on the surrounding parcels and therefore, creates an incompatible land use in an area designated, zoned, and utilized for intensive farming operations. Farming operations create dust and require spraying of herbicides and pesticides to protect the crops. The incompatibility between intensive farming operations and the proposed solar electrical facility could result in the removal of the surrounding parcels from agricultural use. The approval of the proposed petition sets a precedent for other landowners to follow the same path for converting their farmland into solar power plants resulting in additional loss of productive agricultural lands

The applicant has stated that this is speculative. Staff would like to note that Finding No. 2 states that the cancellation is not likely to result in the removal of adjacent lands from agricultural use. Staff has presented an argument that allowing an incompatible use in an area that is designate and zoned for intensive agricultural uses could likely result in removal of adjacent lands from agricultural use.

The applicant has stated that farmland conversion is caused primarily by urbanization and low-density residential development. Staff would like to note that this project involves converting 40 acres of Prime land capable of being farmed and is enrolled in the Williamson Act program to a solar electrical generation facility.

According to County's database approximately 13, 284 acres of land designated as Agricultural and Zoned AE have been approved to be converted into solar power plants since 2008. Additionally, there are currently applications in process for converting another 13,283 acres of land designated as agricultural and Zoned AE into solar power plants. A solar power plant company has recently approached County staff regarding the development of a solar power plant on 9000 acres of agricultural lands.

The applicant has mentioned that the surrounding parcels contain soil classified as "Prime" and are

enrolled in the Williamson Act and are required to remain in agricultural use for at least a 10-year period unless the landowner submits a cancellation petition for removal of the parcel from the contract. Staff would like to note that the subject parcel contains soil that is classified as Prime and is capable of being farmed but the landowner has submitted a Cancellation Petition to remove the parcel from the contract to allow the site to be developed into a solar power plant.

Approval of the proposed power plan could set a precedent for other landowners to follow the same path for converting their farms into solar power plants.

The applicant has also noted that the land has been fallowed for about 15 years due to the lack of interest in farming the parcel. The applicant states that the duration of non-farming calls into question the capability of land for farming by just irrigating the land.

The subject parcel contains soil that is classified as "Grade 2-Good" according to NRCS. Although lack of farming for the past 15 years would require amending the soil to make it productive, development of the subject parcel into a solar power plant that will operate for the next 26 years and beyond will certainly cause the subject 40-acre parcel lose its capability of being used for farming due to soil compaction and installation of hardware associated with the development of the site into a solar power plant.

Regarding finding No. 3, the applicant has stated that per Fresno County Zoning Ordinance Section 853.B.14, the proposed use is permitted subject to approval of an Unclassified Conditional Use Permit and the proposed use would be consistent with approval of CUP 3742, under the Fresno County Zoning Ordinance and thus would be consistent with the County General Plan.

Staff would like to clarify that according to Section 853B. of the Zoning Ordinance, a power generation plant may be permitted in the AE Zone District subject to approval of an Unclassified Conditional Use Permit. This means that an applicant can apply for development of a power plant on a parcel that is located in the AE Zone District however, the permit may or may not be approved depending on several factors, one of which is consistency of the proposal with the policies of the General Plan.

As stated in the staff report, the proposed project is inconsistent with Goal LU-A of the General Plan that promotes the long-term conservation of productive agricultural land. The proposed project is inconsistent with Policy LU-A 12 that states the County shall seek to protect agricultural activities from incompatible land uses. The proposed project is inconsistent with Policy LU-A 16 that promotes the use of programs such as the Williamson Act to improve the competitive nature of farms to ensure the long-term conservation of Agricultural land.

Date: March 8, 2023

Project No.: 220011

To: Agricultural Land Use Committee, County of Fresno

From: Michael Kremer and Evan Riley, White Pine Renewables

Subject: CES Electron Farm One Solar (Unclassified Conditional Use Permit Application No. 3742) – Written Responses to Staff Report Agenda Item #1

This memo is in response to the Staff Report prepared by Fresno County planning staff regarding the partial cancellation of Agricultural Land Conservation Contract No. 1152 (Contract). The proposed project would remove 40 acres from the Contract. The subject parcel is designated as Agricultural land use in the County General Plan and is classified as within the AE-20 Zone District (Exclusive Agricultural, 20-acre minimum parcel size). The subject property is designated as Farmland of Local Importance under the Department of Conservation (DOC) Farmland Mapping and Monitoring Program (FMMP).

Based on their analysis, County staff contend the Board of Supervisors cannot make two of the five findings necessary to approve the cancellation of a Contract, specifically Finding #2 and Finding #3. This memo responds to these statements and provides additional information to refute this determination.

Finding 2: *Cancellation is not likely to result in the removal of adjacent lands from agricultural use.*

The Staff Report contends the findings cannot be made regarding the possible conversion of adjacent lands to a non-agricultural use. They base this determination on the following:

1. The property is eligible for water for crop irrigation,
2. The soil is considered Class 2- Prime Farmland if irrigated
3. The fact that two of the four adjacent parcels are currently under crop cultivation
4. As an incompatible non-agricultural use in an area designated for intensive farming, utility scale solar facilities could result in discontinuation of farming operations on the surrounding parcels.

Statements 1-3 above do not pertain to the question of whether the solar project in question could result in removal of adjacent lands from agricultural use, and they are therefore not relevant considerations in determining whether Finding 2 can be made. With regard to Statement 4, the Staff Report offers no evidence to the assertion that developing a solar facility on the subject property will result in conversion of the two adjacent properties currently under cultivation to non-agricultural use. The statement is speculative and unsubstantiated. Farmland conversion is caused primarily by urbanization; other chief causes for the loss of Farmland include development of low-density rural residences and ecological restoration projects, such as wetlands and wildlife habitat (County of Fresno, 2020). The proposed project does not fall in either of these categories and would not result in any new infrastructure that could promote growth or remove development barriers.

Furthermore, the solar project is not physically able to expand its footprint to the surrounding parcels for technical reasons: the project's approved interconnection capacity to the PG&E grid is limited to its the current footprint. As such, there is no possibility of expanding the project to other

adjacent parcels and therefore no possibility that this project could result in adjacent lands converting to a non-agricultural use.

Finally, many of the adjacent or nearby parcels designated as Prime Farmland and are also under Williamson Act contracts. These parcels would be required to remain in agricultural use for at least a 10-year period unless the contracts are petitioned for cancellation by the landowners, subject to approval by the County Board of Supervisors. Conversion of these parcels to non-agricultural use would therefore require further discretionary review and approval before they could be taken out of agricultural use, which would be speculative to assume at this time, as there are no pending applications for such actions. As noted above, this project will not be a trigger for any potential additional conversion request due to restrictions on expansion of its physical footprint.

The property owners have stated they have no ability or desire to farm this land, and they wish to allow the applicant to develop a renewable energy facility that will help meet the California's obligations under California's Renewable Portfolio Standard (RPS) Program and Senate Bill 100 (SB 100), which calls for 100 percent of all electricity sold in California to come from carbon-free resources by 2045, including 60 percent renewables by 2030.

Staff also suggest the property owner can choose to sell their property to someone who is interested in farming. This suggestion places the onus on the property owner, who wishes to lease the property for solar development, to find a buyer willing to farm the land. This suggestion assumes that there is a readily available alternative user who is interested in farming, which is speculative and unsubstantiated. Staff's argument also does not specifically relate to the conversion of adjacent farmlands to a non-agricultural use.

Although the project site soil type is considered to be Prime Farmland, the property is not designated as Prime under the DOC FMMP. Soils in Class II need careful soil management, including conservation practices, to prevent deterioration or to improve air and water interactions during cultivation. There are several uncertainties regarding the feasibility of the land's successful return to agricultural production, such as how the soil quality will change due to non-farming and non-irrigation. Therefore, although water may be available, the lack of agricultural operations and irrigation for at least 15 years (the full duration of ownership by the current property owners) calls into question the assertion that the land can be successfully farmed merely by irrigation.

The additional analysis provides sufficient data confirming the Board of Supervisors can make Finding #2.

Finding 3: *Cancellation is for an alternate use that is consistent with the adopted General Plan.*

The project site is designated Agricultural by the Fresno County General Plan and is within the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) zone. Per Fresno County Zoning Ordinance Section 853.B.14, the proposed use is permitted subject to approval of an Unclassified Conditional Use Permit. The proposed use would be consistent with approval of CUP 3742, under the Fresno County Zoning Ordinance and thus would be consistent with the County General Plan.

In addition, The Fresno County Solar Facility Guidelines (Fresno County 2017) include provisions applicable to the review process for solar facility applications that relate to agricultural resources. The project has followed the Solar Facility Guidelines by providing the supporting data as well as creating a buffer between the project and neighboring agricultural operations as shown on the site plan, and it has submitted a Reclamation Plan and a Pest Management Plan. Additionally, a Right to

Farm Notice will be recorded prior to the issuance of building permits. It should also be noted that once operation the solar facility has ceased, the land will be restored as nearly as possible to its original condition, consistent with the applicant's submitted reclamation plan, which is required for all solar projects in accordance with the County's Solar Facility Guidelines. The project will also be required to pay cancellation fees as determined by the Assessor's office, which is \$43,750.

Therefore, with this information, the Board of Supervisors can make Finding #3.

References

County of Fresno. (2020). *Fifth Standard Solar Project Complex Environmental Impact Report*.

International Brotherhood of Electrical Workers Local 100

5410 EAST HOME AVENUE • FRESNO, CALIFORNIA 93727

TELEPHONE (559) 251-8211 • FAX (559) 251-0543

April 11, 2023

RE: Support for Conflitti Solar Project in Fresno County

To whom it may concern:

I am writing this letter to express the International Brotherhood of Electrical Workers Local 100's support for the construction of the Conflitti Solar Project located south of W Panoche Rd in Fresno County.

IBEW Local 100 has been an active member of the community in the Central San Joaquin Valley for 110 years. IBEW Local 100 was established in 1912, and currently supports over 1,400 workers who are members residing in the Central Valley. IBEW wages set the prevailing wage so all our members who will potentially work on this project will be paid prevailing wages and as always, most of the people to work on this project will be sourced from the local communities. Additionally, the project will provide valuable apprenticeship opportunities to continue our work of building the middle class without the worry of college debt.

IBEW Local 100 is excited to work with White Pines Renewables to support the construction of the Conflitti Solar Project. We wholeheartedly support this project and are confident that the project will benefit the local communities by providing quality, high-paying jobs and supporting apprenticeship training programs.

Sincerely,



Dave Clark
President
IBEW Local 100