

BEFORE THE BOARD OF SUPERVISORS COUNTY OF FRESNO

RESOLUTION ADOPTING CEQA FINDINGS
FOR PROPOSED INFRASTRUCTURE
IMPROVEMENT, MAINTENANCE,
PROTECTION, AND REPAIR AGREEMENT

RESOLUTION NO. 17-116

The Fresno County Board of Supervisors hereby makes the following findings regarding the above-captioned matter.

The Panoche Valley Solar Project and Initial Environmental Review

1. The Panoche Valley Solar Facility is a planned utility-scale, approximately 247 megawatt, photovoltaic solar energy generating facility, to be located on approximately 2,500 acres of private property in San Benito County (the "Project").

2. The Project is owned by Panoche Valley Solar, LLC, a Delaware limited liability company ("Developer").

3. A Conditional Use Permit was approved for the Project on October 12, 2010 following certification of a Final Environmental Impact Report ("FEIR"; State Clearinghouse # 2010031008) and adoption of CEQA findings, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program by the San Benito County Board of Supervisors (San Benito County Resolution No. 2010-118). The County of San Benito served as the Lead Agency under the California Environmental Quality Act ("CEQA") for the Project.

4. As approved by the San Benito County Board of Supervisors, access to the Project site occurs via Little Panoche Road, from Interstate 5 through Fresno County to the Project site in San Benito County.

Supplemental Environmental Review of the Project by San Benito County

5. On May 19, 2015, the San Benito County Board of Supervisors approved an application to amend the Conditional Use Permit for the Project, following certification of a Final Supplemental Environmental Impact Report ("FSEIR") and adoption of CEQA findings, a

Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program (San Benito County Resolution No. 2015-41).

6. The FEIR and FSEIR identified significant effects of the Project to the following resources, and San Benito County as Lead Agency made findings under CEQA with respect to each of these resources:

- a. Aesthetics;
- b. Agricultural Resources;
- c. Air Quality;
- d. Biological Resources;
- e. Cultural Resources;
- f. Geology and Soils;
- g. Hazards and Hazardous Materials;
- h. Land Use;
- i. Noise;
- j. Public Services, Utilities and Service Systems;
- k. Transportation and Circulation; and
- l. Water Resources.

7. The County of San Benito, as the Lead Agency, found that effects of the Project to the following resources were significant and unavoidable and adopted a Statement of Overriding Considerations regarding these effects:

- a. Aesthetics; and
- b. Noise

8. The Lead Agency determined in the FEIR and FSEIR that certain effects of the Project to Transportation and Circulation resources would occur in Fresno County.

9. Specifically, the Lead Agency determined in the FEIR and FSEIR that construction of the Project would create the following impact to Transportation and Circulation resources in Fresno County, and specifically to Little Panoche Road.

- a. Impact TR-1: Unsafe roadway conditions.

1 10. The Lead Agency found that Impact TR-1 could be mitigated to a less than
2 significant level in Fresno County by imposing the following mitigation measures:

- 3 a. Mitigation Measure TR-1.2: Rehabilitate, protect and monitor roadway
4 pavement, bridges and culverts.
5 b. Mitigation Measure TR-1.3: Repair roadway damage.

6 11. Following certification of the FSEIR in 2015, in an effort to carry out Mitigation
7 Measure (MM) TR-1.2, the Developer identified the installation, maintenance, and
8 decommissioning of a temporary jumper bridge at Little Panoche Creek in Fresno County (the
10 “Jumper Bridge Project”) as an upgrade that would improve access to the Project, while protecting
11 the Little Panoche Creek Bridge.

12 12. The County of San Benito, as the Lead Agency for the Project, determined that
13 pursuant to CEQA Guidelines section 15164, it was appropriate to prepare an Addendum to the
14 FSEIR for the Jumper Bridge Project because some additions to the FSEIR were necessary.

15 13. The purpose of the Addendum was to analyze whether any of the conditions in
16 CEQA Guidelines Section 15162 will occur as a result of the Jumper Bridge Project.

17 14. The Addendum considered modifications and components specifically associated
18 with the Jumper Bridge Project and concluded that the Jumper Bridge Project would not result in
19 new impacts or substantially more severe impacts than previously identified in the 2015 FSEIR.

20 15. The Lead Agency determined on the basis of the Addendum that the Jumper
21 Bridge Project would not change the Lead Agency’s findings regarding the 2015 FSEIR for the
22 PVS Project, and confirmed that the level of significance of impacts identified in the 2015 FSEIR
23 would not change.

24 16. Specifically, the Lead Agency determined that, through the implementation of
25 Applicant Proposed Measures (“APMs”) and Mitigation Measures identified in the FEIR and
26 FSEIR, the environmental effects of the Jumper Bridge Project relating to the following resources
27 would not be new or substantially more adverse than the effects identified in the FEIR and FSEIR:

- 28 a. Agriculture (MM AQ-1.1, BR-1.1, WR-6.1, WR-6.2, WR-6.3)
 b. Air Quality (APM AQ-2, AQ-3)

- c. Biological Resources (MM BR-G.1, BR-G.2, BR-G.4, BR-1.1)
- d. Cultural and Paleontological Resources (MM CR-2.1, CR-2.2, CR-2.3, CR-4.4, PA-1.1, PA-1.2)
- e. Geology, Mineral Resources and Soils (APMs and BMPs)
- f. Hazards and Hazardous Materials (MM WR-6.3, APM HAZ-1)
- g. Land Use and Recreation (MM LU-1.2)
- h. Noise (MM NS-1.1, NS-1.2, NS-1.3, TR-1.1)
- i. Public Services, Utilities, and Service Systems (MM PS-1.1)
- j. Transportation and Circulation (MM TR-1.1, TR-1.2, TR-1.3, TR-1.4)
- k. Water Resources (MM WR-6.1, WR-6.2, WR-6.3, APMs and BMPs)
- l. Cumulative Impacts

17. Additionally, the Lead Agency determined in the Addendum that the Jumper Bridge Project would not have effects that would be new or substantially more adverse than the significant environmental effects identified in the FEIR and FSEIR relating to the following resources:

- a. Aesthetics
- b. Climate Change/Greenhouse Gases
- c. Population and Housing

18. As a result of this analysis, the County of San Benito determined that no subsequent EIR was required pursuant to CEQA Guidelines Section 15162 before the Jumper Bridge Project could proceed.

Work Proposed Within the Right-of-Way of the County of Fresno

19. In order to access the Project site and to construct, operate, and maintain the Project, Developer desires vehicular access along Little Panoche Road within Fresno County, thereby allowing the transport of equipment, materials, labor, and the like.

20. To satisfy MM TR-1.2 and TR-1.3, Developer desires to construct certain improvements, and perform certain maintenance, protection, and repair activities, including the Jumper Bridge Project, within County of Fresno right-of-way (the "Improvements").

1 21. In order to complete Improvements, the Developer requires the County to issue
2 certain traffic control permits and encroachment permits.

3 22. To ensure that the Improvements are performed in compliance with County of
4 Fresno standards, and in order to issue the required traffic control permits and encroachment
5 permits, the County requires the Developer to enter into an agreement which describes the
6 Improvements to be constructed and requires the Developer to furnish certain financial security
7 to the County of Fresno (the "proposed Improvement Agreement").

8 **Environmental Review of the Project by a Responsible Agency**

10 23. Under the California Environmental Quality Act, a "responsible agency" is ". . . a
11 public agency which proposes to carry out or approve a project, for which a Lead Agency . . . has
12 prepared an EIR. . . For the purposes of CEQA, the term "Responsible Agency" includes all public
13 agencies other than the Lead Agency which have discretionary approval power over the project."
14 (CEQA Guidelines, § 15381.)

15 24. The County of Fresno is a Responsible Agency because it has discretionary
16 authority for approving a portion of the Project, specifically, the proposed Improvement
17 Agreement.

18 25. A Responsible Agency complies with CEQA by considering the EIR prepared by
19 the Lead Agency and by reaching its own conclusions on whether and how to approve the project
20 involved. (CEQA Guidelines, § 15096, subd. (a).)

21 26. Prior to reaching a decision on the project, the Responsible Agency must consider
22 the environmental effects of the project as shown in the EIR. A subsequent or supplemental EIR
23 can be prepared only as provided in CEQA Guidelines Sections 15162 or 15163. (CEQA
24 Guidelines, § 15096, subd. (f).)

25 27. When considering alternatives and mitigation measures, the role of a Responsible
26 Agency is to mitigate or avoid only the direct or indirect environmental effects of those parts of
27 the project which it decides to carry out, finance, or approve. (CEQA Guidelines, § 15096, subd.
28 (g)(1).)

28. A Responsible Agency must make one or more written findings for each significant effect identified by an EIR, accompanied by a brief explanation of the rationale for each finding. (15091(a).)

NOW, THEREFORE BE IT RESOLVED THAT:

A. The Board of Supervisors adopts the foregoing Findings as true and correct.

B. The Board of Supervisors has considered the environmental effects of the proposed Improvement Agreement, as shown in whole of the record before it, including the FEIR, FSEIR, and Addendum, which are incorporated herein by reference.

C. Based on its consideration of the whole of this record, the Board of Supervisors finds that (1) changes or alterations have been required in, or incorporated into, the Improvement Agreement as that portion of the Project subject to the Board of Supervisors' authority as a Responsible Agency under CEQA, in the form of MM TR-1.1, MM TR-1.2, MM TR-1.3, and MM TR-1.4 and the additional Mitigation Measures and Applicant Proposed Measures identified herein, which avoid or substantially lessen the significant environmental effects as identified in the FEIR, FSEIR, and Addendum; (2) there are no feasible mitigation measures or alternatives within its power that would substantially lessen or avoid any significant effects of the proposed Improvement Agreement; and (3) there are no unavoidable significant environmental effects relating to the proposed Improvement Agreement that would require the Board of Supervisors to adopt a statement of overriding considerations pursuant to CEQA Guidelines Section 15093.

D. Under the circumstances present, neither a Subsequent EIR nor Supplemental EIR is required under CEQA Guidelines sections 15162 nor 15163 prior to approval of the proposed Improvement Agreement.

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1 THE FOREGOING was passed and adopted by the following vote of the Board of
2 Supervisors on the 7th day of February, 2017, to-wit:

3 AYES: Supervisors Borgeas, Magsig, Mendes, Pacheco, Quintero

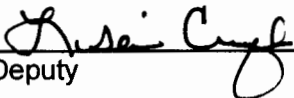
4 NOES: None

5 ABSENT: None

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7 BRIAN PACHECO
8 Chairman, Board of Supervisors

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11 ATTEST:
12 Bernice E. Seidel, Clerk
13 Board of Supervisors

14
15 By 
16 Deputy