



JULY 29, 2022

VIA EMAIL: JSHAW@FRESNOCOUNTYCA.GOV

Attn: Jeremy Shaw, Planner

Fresno County Department of Public Works and Planning

Development Services and Capital Projects Division

2220 Tulare Street, Sixth Floor

Fresno, CA 93721

Governor's Office of Planning & Research

AUG 01 2022

STATE CLEARINGHOUSE

Dear Mr. Shaw:

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE KEY ENERGY STORAGE PROJECT, SCH# 2022070414

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Notice of Preparation of an Environmental Impact Report for the Key Energy Storage Project (Project). The Division monitors farmland conversion on a statewide basis, provides technical assistance regarding the Williamson Act, and administers various agricultural land conservation programs. We offer the following comments and recommendations with respect to the project's potential impacts on agricultural land and resources.

Project Description

The applicant proposes to construct, operate, maintain, and decommission an energy storage facility on approximately 318-acres of private land comprised of APNs 085-040-58S, 085-040-36S, and 085-040-37S in western Fresno County. The site is located 4 miles southwest of the City of Huron, 0.4 mile east of Interstate 5 (I-5), immediately south of W. Jayne Avenue, between I-5 and South Lassen Avenue (State Route 269), and adjacent to PG&E's existing Gates Substation.

The project could store 3 gigawatts of energy or more in modular enclosures. The project would consist of a lithium ion, iron-flow, or other similar storage technology. On-site project support facilities would include a collector substation, inverters with connection lines, heating ventilating and air conditioning (HVAC) units, transformers, fencing, access roads, a supervisory control and data acquisition system, and security lighting. The project also includes an approximately 0.3-mile long, 500-kilovolt (kV) overhead generation tie line that would extend north to the Gates Substation. This line would be installed on new steel or concrete poles, each up to 150 feet tall and spaced at approximately 500-foot intervals. Project buildout would occur in four phases.

The project site is designated as Prime Farmland and subject to Williamson Act contracts. It currently is in agricultural production (a citrus orchard on APN 085-040-58S) and fallow (085-040-36S and 085-040-37S).

Department Comments

The conversion of agricultural land represents a permanent reduction and significant impact to California's agricultural land resources. CEQA requires that all feasible and reasonable mitigation be reviewed and applied to projects. Under CEQA, a lead agency should not approve a project if there are feasible alternatives or feasible mitigation measures available that would lessen the significant effects of the project.

All mitigation measures that are potentially feasible should be included in the project's environmental review. A measure brought to the attention of the lead agency should not be left out unless it is infeasible based on its elements.

Consistent with CEQA Guidelines, the Department recommends the County consider agricultural conservation easements, among other measures, as potential mitigation. (See Cal. Code Regs., tit. 14, § 15370 [mitigation includes "compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements."])

Mitigation through agricultural easements can take at least two forms: the outright purchase of easements or the donation of mitigation fees to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural easements. The conversion of agricultural land should be deemed an impact of at least regional significance. Hence, the search for replacement lands should not be limited strictly to lands within the project's surrounding area.

A helpful source for regional and statewide agricultural mitigation banks is the California Council of Land Trusts. They provide helpful insight into farmland mitigation policies and implementation strategies, including a guidebook with model policies and a model local ordinance. The guidebook can be found at:

[California Council of Land Trusts](#)

Of course, the use of conservation easements is only one form of mitigation that should be considered. Any other feasible mitigation measures should also be considered.

Indeed, the recent judicial opinion in *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814 ("KG Farms") holds that agricultural conservation easements on a 1 to 1 ratio are not alone sufficient to adequately mitigate a project's conversion of agricultural land. KG Farms does not stand for the proposition that agricultural conservation easements are irrelevant as mitigation. Rather, the holding suggests that to the extent they are considered, they may need to be applied at a greater than 1 to

1 ratio, or combined with other forms of mitigation (such as restoration of some land not currently used as farmland).

Conclusion

The Department recommends further discussion of the following issues:

- Type, amount, and location of farmland conversion resulting directly and indirectly from implementation of the proposed project.
- Impacts on any current and future agricultural operations in the vicinity; e.g., land-use conflicts, increases in land values and taxes, loss of agricultural support infrastructure such as processing facilities, etc.
- Incremental impacts leading to cumulative impacts on agricultural land. This would include impacts from the proposed project, as well as impacts from past, current, and likely future projects.
- Proposed mitigation measures for all impacted agricultural lands within the proposed project area.
- Projects compatibility with lands within an agricultural preserve and/or enrolled in a Williamson Act contract.
- If applicable, notification of Williamson Act contract non-renewal and/or cancellation.

Thank you for giving us the opportunity to comment on the Notice of Preparation of an Environmental Impact Report for the Key Energy Storage Project. Please provide this Department with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions regarding our comments, please contact Farl Grundy, Associate Environmental Planner via email at Farl.Grundy@conservation.ca.gov.

Sincerely,

Monique Wilber

Monique Wilber

Conservation Program Support Supervisor