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Diana Robinson, Planning Division Manager
Imperial County Planning and Development Services Department
801 Main Street
El Centro, CA 92243

Governor's Office of Planning & Research

Apr 18 2023

STATE CLEARINGHOUSE

Dear Ms. Robinson:

MITIGATED NEGATIVE DECLARATION FOR THE TRUE NORTH ORGANICS RENEWABLE ENERGY FACILITY PROJECT, SCH# 2023040047

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Mitigated Negative Declaration for the True North Organics Renewable Energy Facility 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 is proposing the True North Organics Renewable Energy Facility Project, a high solids anaerobic digestion (HSAD) facility with incidental advanced composting for the management and processing of residential, commercial, and industrial organic waste and green material. The proposed Project would be located on approximately 75 acres in unincorporated Imperial County, California. The Project would provide organics processing infrastructure and organic materials diversion from regional landfills. The Project would also generate renewable energy through the HSAD process and may incorporate behind the meter on-site solar and battery storage as an accessory use for the Project.

Renewable energy generated through the HSAD process would be in the form of renewable natural gas, which could be directly injected into the pipeline system. The Project consists of four parcels, of which three are proposed to undergo a Zone Change from ML-I-2-RE to ML-I-3-RE to accommodate the proposed Project's activities under a proposed Conditional Use Permit (CUP). Parcels would be merged by way of a Lot Merger to meet the Project's acreage requirements; in addition, a Variance would be requested to accommodate the height of a digester necessary for the Project's

activity. Lastly, the applicant is seeking an amendment to the Mesquite Lake Specific Plan to alter the land use designation from Medium Industrial to Heavy Industrial to allow for the anaerobic digester, as well as a text amendment to further clarify the anaerobic and composting processes.

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 consideration of 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.

Thank you for giving us the opportunity to comment on the Mitigated Negative Declaration for the True North Organics Renewable Energy Facility 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