

**Panoche Energy Center, LLC**

**Site Plan & Operational Statement**  
for  
*Site Plan Review*

January 26, 2007

Submitted to:  
The County of Fresno  
Division of Public Works and Planning  
Development Services Division

Submitted by:  
Panoche Energy Center, LLC

*Table of Contents*

<b>OVERVIEW</b>	page 3
<b>1. NATURE OF THE OPERATION</b>	page 3
<b>2. OPERATIONAL TIME LIMITS</b>	page 7
<b>3. NUMBER OF CUSTOMERS OR VISITORS</b>	page 7
<b>4. NUMBER OF EMPLOYEES</b>	page 8
<b>5. SERVICE AND DELIVERY VEHICLES</b>	page 8
<b>6. NUMBER OF PARKING SPACES</b>	page 11
<b>7. GOODS SOLD ON-SITE</b>	page 11
<b>8. EQUIPMENT</b>	page 12
<b>9. SUPPLIES &amp; MATERIALS</b>	page 13
<b>10. NOISE CONDITIONS</b>	page 14
<b>11. SOLID AND LIQUID WASTES</b>	page 18
<b>12. WATER USE</b>	page 22
<b>13. ADVERTISING</b>	page 22
<b>14. EXISTING &amp; NEW BUILDINGS</b>	page 22
<b>15. BUILDINGS FOR OPERAITONS</b>	page 24
<b>16. OUTDOOR LIGHTING &amp; SOUND SYSTEMS</b>	page 24
<b>17. LANDSCAPING &amp; FENCING</b>	page 24
<b>18. OTHER INFORMATION</b>	page 25
<b>LIST OF ATTACHMENTS</b>	page 29

## OVERVIEW

Panoche Energy Center, LLC (PEC) respectfully submits this *Site Plan* and *Operational Statement* to the Fresno County, Division of Public Works and Planning, Development Services Division (Division) for two purposes: (1) to facilitate the Division's review of the Land Use section of the *Application for Certification* (AFC), submitted by PEC to the California Energy Commission (CEC) on August 2, 2006, and (2) to facilitate the Division's Site Plan Review process in regard to the California Subdivision Map Act.

This submittal consists of two main parts, the *Site Plan* and the *Operational Statement*. The *Site Plan* is a single 30" x 43" drawing that shows details for site boundaries, roads, topography, general arrangement of equipment and buildings, among others. (Note that there are eleven full-size copies of the *Site Plan* included in this submittal.) The *Operational Statement* is a narrative description, herein, based on the Division's guidelines. Additional drawings, as identified throughout, serve as attachments to this submittal.

### 1. NATURE OF THE OPERATION

#### 1.1 Introduction

The Panoche Energy Center (PEC) is a proposed simple-cycle electrical generating facility which will be permitted by the California Energy Commission. The generating facility will include four General Electric LMS100 natural gas-fired combustion turbine generators (CTGs), each equipped with water injection to the combustors for reducing production of oxides of nitrogen (NO<sub>x</sub>), a selective catalytic reduction (SCR) system with 19 percent aqueous ammonia injection to further reduce NO<sub>x</sub> emissions, and an oxidation catalyst to reduce carbon monoxide (CO).

The total net generating capacity will be approximately 400 megawatts (MW). Electricity generated by the PEC will be delivered to the existing Pacific Gas and Electric (PG&E) electrical transmission system at the adjacent Panoche Substation. Interconnection at this substation will minimize impacts to the PG&E transmission system while providing efficient peaking power for use during peak electricity demand.

Process water and non-potable water uses will be supplied to the PEC from two new groundwater wells drilled onsite into the Westside Sub-basin of the San Joaquin Valley Groundwater Basin. These wells will draw water from a brackish aquifer. Potable water will be supplied to the PEC by a bottled water service.

Process wastewater will be disposed of using a deep well injection system. Sanitary wastes will be directed to a septic system and leach field designed to treat the sanitary flow from the administration and control building and restrooms. An artist rendering of the power plant and site is provided as *Attachment 1- Artist Rendering*.

## **1.2 Location**

The project area is located in the unincorporated area of western Fresno County, adjacent to the Panoche Hills and east of the San Benito County line. The site is approximately 50 miles west of the City of Fresno and approximately 2 miles east of Interstate 5. The site is more specifically described as the Southwest Quarter of Section 5, Township 15 South, Range 13 East, on the United States Geological Survey (USGS) Quadrangle map. The assessor's parcel number (APN) is 027-060-78S.

The facility site will be located on a 12.8-acre site within a 128-acre parcel. The construction staging area, including laydown and parking, consists of an 8-acre portion of the 128-acre parcel immediately south of the 12.8-acre plant site. The plant site and construction area are leased by the applicant from the property owners. The 128-acre parcel is currently in agricultural production with pomegranate trees. Offsite improvements associated with the project include a 400-foot paved access road south of West Panoche Road to the plant site, 2,400 linear feet of new gas pipeline, 300-foot transmission line to tie into the Panoche Substation, and the PG&E expansion of the Panoche Substation by approximately 1.1 acres south of the existing substation boundary.

The site and laydown area are shown relative to the 128-acre parcel and surrounding area on the *Attachment 2 – General Vicinity*.

## **1.3 Site Description**

The site is in an agricultural area and is currently planted in pomegranate trees. Power line easements are located along the western boundary and adjacent to the northeast corner of the site. The site is essentially flat, with a slight slope down to the northeast.

The current site topography is shown on *Attachment 2 – General Vicinity*. The site elevation is about 410 feet above mean sea level and slopes gently down to the northeast at approximately one percent grade. The surface is composed of sands, silts, and clays.

## **1.4 Project Description**

The generating facility will consist of four (4) General Electric LMS100 natural gas-fired Combustion Turbine Generators (CTG), each equipped with water injection to the combustors for reducing production of NO<sub>x</sub>, a SCR system with 19 percent aqueous ammonia injection to further reduce NO<sub>x</sub> emissions and an oxidation catalyst to reduce CO emissions. The total net generating capacity will be approximately 400 MW.

Auxiliary equipment will include inlet air filters with evaporative coolers, turbine compressor section inter-cooler, mechanical draft cooling tower, circulating water pumps, water treatment equipment, natural gas compressors, generator step-up and auxiliary transformers, and water storage tanks. Information on the major equipment is listed in a table in Section 8 below.

Electric power generated at the PEC facility will be sold to PG&E under a 20- year power purchase agreement (PPA) between PEC and PG&E. Design of the plant and equipment selection is based on requirements in the PPA. The agreement was executed in April 2006 and requires that the facility be online by August 1, 2009 in order to avoid delay-related damages.

The PEC will connect to the PG&E electrical transmission system at the adjacent Panoche Substation. The connection will require approximately 300 feet of 230 kilovolt (kV) transmission line located within the plant site and PG&E's substation. Interconnection at this substation minimizes impacts to the PG&E transmission system while providing efficient peaking power for use during peak demand as projected by PG&E.

### **1.5 Site Access**

Access to the site will be from Davidson Avenue, approximately 400 feet south of the intersection with West Panoche Road via a 24-foot-wide newly paved road. The existing access will be improved for the project. Improvements will require a 50 foot access easement, widening the road surface, improving drainage, and laying gravel on approximately 400 feet of road surface from the intersection with West Panoche Road to the facility's main gate. These improvements will support the expected traffic loads and reduce dust emissions. The newly paved road will have two 12-foot-wide lanes with 5-foot-wide gravel shoulders and contoured drainage ditches.

### **1.6 Site Plan**

The attached *Site Plan* shows the location and size of the proposed plant facilities and off site improvements including the improved access road, the gas pipeline, the 230kV transmission line, the expansion area for the PG&E electrical substation, the construction lay down area, and a basin for storm water retention.

The plant facilities have been arranged for optimum use of the property as well as to ensure ease of operation. Investigations and evaluations have been conducted to define the specific facility equipment requirements and the suitability of the proposed project site to accommodate these facilities. Grading and drainage for the project site is described in *Section 18.1 – Site Grading & Drainage*.

## 1.7 Building and Structural Features

This section describes the buildings, structures, and other civil/structural features that will constitute the facility. As noted above, the general arrangement is shown on *Site Plan*. Elevations of major structures and equipment are shown in *Attachment 3 - Elevations of Structures*.

The power block will consist of four separate simple-cycle combustion turbine power generation trains, each consisting of one General Electric Energy LMS100 CTG, an Air Inlet System, an Intercooler and Variable Bleed Valve Silencer, a SCR system, one stack, a power control module, an intercooler motor control center, a fuel gas filter/separater, and a step-up transformer.

In addition to the four combustion turbine power generation trains, there will be a five-cell cooling tower, an ammonia storage tank, a natural gas compressor facility, a water treatment facility, and two auxiliary transformers. There will also be balance-of-plant (BOP) mechanical and electrical equipment.

The major equipment will be supported on reinforced concrete foundations at grade, with pile-supports as necessary. Individual reinforced pads at grade will be used to support the BOP mechanical and electrical equipment. The gas compressors will be in an enclosed acoustic building for noise attenuation. The water treatment equipment will also be in an enclosed building.

Stacks. The SCR system will include an integral stack/silencer system. The stack will be a self-supporting steel stack, 90 feet tall, and will include the associated appurtenances, such as sampling ports, exterior ladders, side step platforms, a lighting system if required by FAA regulations, and electrical grounding.

Buildings. The plant buildings will include an administration and control building, a warehouse building, a water treatment building, a firewater pump building, switchgear modules, and a gas compressor building. The administration and control building will house the administrative areas and the control room for the new facility. All of the buildings will be supported on mat foundations or individual spread footings.

Transformer Foundations and Fire Walls. There will be four 13.8kV to 230kV step-up oil-filled transformers and two auxiliary oil-filled transformers. Each will be supported on reinforced concrete foundations at grade, with pile-supports as necessary. Construction of a concrete retention basin around each transformer will provide oil containment, in the event of a failure of a transformer. Concrete firewalls are planned for each step-up transformer and auxiliary transformer to limit a potential transformer fire to its concrete basin area.

Yard Tanks. The yard water storage tanks will include the demineralized water storage tank (240,000 gallons), the raw water/firewater storage tank (500,000 gallons), and the wastewater collection tank (20,000 gallons). The yard storage tanks will be vertical, cylindrical, field-erected, or shop-fabricated steel tanks. Each tank will be supported on a suitable foundation consisting of either a reinforced concrete ring wall with an interior bearing layer of compacted sand for the tank bottom, or a reinforced concrete mat.

Roads. The new facilities will be served by the road network shown on the *Site Plan*. The new site will be accessed from West Panoche Road via a new asphalt paved entrance road (Davidson Road) shown on the *Site Plan*. All new roads, miscellaneous access drives, and permanent parking areas within the site boundaries will be asphalt paved.

## **2. OPERATIONAL TIME LIMITS**

Each of the four CTG will generate approximately 100 MW under most ambient conditions. The CTGs are expected to operate no more than 5,000 hours per year (each CTG), with an expected plant capacity factor of 57 percent. As required in the PG&E Power Purchase Agreement, each CTG will be available to run up to the following hours on a quarterly basis:

- 1<sup>st</sup> quarter = 1100 hours
- 2<sup>nd</sup> quarter = 1100 hours
- 3<sup>rd</sup> quarter = 1600 hours
- 4<sup>th</sup> quarter = 1200 hours

Each CTG may run any day of the week for up to 24 hours. Given that these are “peaking” generating units, likely they will operate a few hours each day rather than continuously. Per the PPA, each unit may start-up and shut-down once per day, 365 days per year. While these units may run continuously for periods greater than 24-hours, likely they will run during peak energy demand periods – typically between 6:00 AM through 8:00 PM.

## **3. NUMBER OF CUSTOMERS OR VISITORS**

Given the nature of the PEC as a generator of electricity connected to PG&E’s electrical transmission system, PEC will not have customers visiting the site. Visitors will mainly consist of service and material vendors as described in Section 5.2 below. PEC estimates that there will be, on-average, less than ten visitor vehicles per day.

#### 4. NUMBER OF EMPLOYEES

**4.1 Construction:** The PEC project construction is envisioned to be completed within a 16-month construction schedule. The average construction workforce will be about 150 workers over this time period. During an approximately 3-month peak period, the construction workforce may reach up to 364 workers during the peak month. Independent of the power plant construction activities, expansion of the adjacent substation would require up to 19 workers onsite during a 5-month construction period.

**4.2 Operations:** The PEC will employ 12 full-time employees. These will consist of six operators, four maintenance specialists, one office administrator and one plant manager. The six non-operating employees will typically work 8:00 AM to 5:00 PM Monday through Friday. The other six employees, notably the operating staff, will work various shifts around-the-clock. Typically, there will be two operators at any given time present at the plant.

#### 5. SERVICE AND DELIVERY VEHICLES

The effects and impacts of service and delivery vehicles are described in two distinct phases – construction and operations.

**5.1 Construction-related Impacts (Year 2008 Peak Project Construction)** The PEC project construction is envisioned to be completed within a 16-month construction schedule. The average construction workforce will be about 150 workers over this time period. During an approximately 3-month peak period, the construction workforce may reach up to 364 workers during the peak month. Independent of the power plant construction activities, expansion of the adjacent substation would require up to 19 workers onsite during a 5-month construction period. During the project construction period, small quantities of hazardous materials will be delivered and construction waste products will be hauled to and from the project site.

Typically, construction activity early work starts before the 7:00 AM to 9:00 AM and 4:00 PM to 6:00 PM adjacent street peak hour traffic, but for traffic impact analysis purposes, it was conservatively assumed that construction workers traffic would commute alone and within the 7:00 AM to 9:00 AM and 4:00 PM to 6:00 PM adjacent street peak hour traffic window.

In addition to the construction workforce trips, construction equipment deliveries and construction-related truck traffic would contribute additional trips during the construction period. Truck and heavy equipment traffic were estimated using a passenger car equivalent (PCE) factor of 3 cars per truck. The following table lists the Peak Project Construction Trip for the PEC construction phase.

## PEAK PROJECT CONSTRUCTION TRIP GENERATION

	Daily Trips	AM Peak Hour Trips		PM Peak Hour Trips	
		In	Out	In	Out
Peak PEC Construction Workers <sup>1</sup>	725	364	0	0	364
Equipment Deliveries <sup>2</sup>	42	9	9	0	12
Construction Trucks <sup>3, 4</sup>	48	12	0	0	12
Substation Workers	38	19	0	0	19
<b>Total Trips</b>	<b>853</b>	<b>404</b>	<b>9</b>	<b>0</b>	<b>407</b>

<sup>1</sup> Worker traffic during 3-month peak project construction period in Year 2008

<sup>2</sup> Equipment movement during 3-month peak project construction period in Year 2008

<sup>3</sup> Construction truck movement during 3-month peak project construction period in Year 2008

<sup>4</sup> 3 Passenger Car Equivalent (PCE) per truck

As shown in the table above, during the peak 3-month project construction period, it is conservatively estimated that there will be approximately 853 daily trips and 413 AM peak hour and 407 PM peak hour trips. These figures were used as the basis for the peak project construction traffic analysis.

### 5.2 Operations-related Impacts (Year 2009 Project Operations)

Upon completion of the proposed PEC construction and commissioning of the facility, the PEC will generate operations-related trips that are substantially less than the peak construction activities. During the normal operational phase of the project, a planned 12-employee workforce will oversee the operation and maintenance of the project. Occasional deliveries and maintenance-related trips are anticipated as part of the normal operations of the plant. Based on the operational needs of the PEC the following sources of vehicular traffic are anticipated:

- Operations personnel vehicles
- Bottled water deliveries
- Trash pickup
- Tools and spare parts deliveries
- Janitorial staff visits
- Chemical (e.g., aqueous ammonia, sulfuric acid, water treatment) deliveries
- Lubricating oil and filters deliveries
- Laboratory analysis waste deliveries
- Hazardous and non-hazardous waste pickups
- Visitor vehicles

During the project operations, small quantities of hazardous materials will be delivered and operational waste products will be hauled to and from the project site. More detailed discussion on project waste management and handling of hazardous materials are presented in the AFC *Section 5.14, Waste Management* and *Section 5.15, Hazardous Materials*, respectively.

Upon completion of the proposed project construction, it is anticipated that there will be approximately 12 workers staffing the PEC plant operations. These workers will not all commute during the 7-9 AM and 4-6 PM adjacent street peak hour traffic but were included for purposes of evaluating the worse-case scenario during plant operations. During normal plant operating hours, occasional visitor trips, maintenance visits and as-needed material and equipment deliveries are anticipated on a non-recurring basis and will more likely be occurring outside of the 7-9 AM and 4-6 PM analysis peak hours.

The following table presents the project operations trip generation estimates for the proposed project.

### PROJECT OPERATIONS TRIP GENERATION

	Daily Trips	AM Peak Hour Trips		PM Peak Hour Trips	
		In	Out	In	Out
Operational Workforce <sup>1</sup>	24	12	0	0	12
Total Trips	24	12	0	0	12

<sup>1</sup> All operational workers (12 employees) were conservatively assumed to commute during the 7-9 AM and 4-6 PM adjacent street peak hour traffic.

**5.3 Year 2008 Conditions Impact Analysis.** Based on the Fresno County Division of Public Works traffic impact threshold criteria, none of the project study intersections would be significantly impacted during the peak project construction activity in Year 2008. The existing circulation system including study roadways, freeway segments and intersections have sufficient capacity to accommodate peak PEC project construction traffic.

**5.4 Year 2009 Conditions Traffic Impact Summary.** As discussed previously, the Year 2008 Peak Construction activities represented the worst possible case traffic analysis scenario for the proposed PEC. Upon completion of the proposed PEC project construction and commissioning of the facility, the PEC will generate operations-related trips that are substantially less than peak construction activities. Post-construction background traffic within the project study area is anticipated to be slightly higher than pre-construction levels with minor incremental traffic increase attributed to ambient growth and added trips from plant operations.

Based on the Fresno County Division of Public Works traffic impact threshold criteria, none of the project study intersections would be significantly impacted with the start of project operations by Year 2009. The projected incremental net increase of trips attributed to project operations would not create significant traffic impacts to the surrounding roadway circulation system.

### **5.5 Mitigation Measures (Construction)**

The result of the project construction traffic analysis showed that no study roadway segment or intersection would be significantly impacted by the proposed project during Year 2008 Peak Construction activities. Based on these findings, the Year 2008 Peak Construction conditions would not require traffic mitigation.

The following mitigations are voluntarily offered by PEC either as part of the construction activity requirements, or as pro-active measures initiated by PEC to minimize construction related trip-making and resultant increases of traffic to the surrounding roadway circulation system.

During project construction, PEC will designate a construction worker, equipment and material delivery/haul route via I-5, the short segment of Panoche Road, the PEC Service Road and vice versa. Construction traffic on Panoche Road east of the project site is anticipated to be primarily be worker trips and will be minimized to the extent feasible.

If required, a traffic and transportation control plan will be prepared in coordination with Fresno County and Caltrans to address short-term construction traffic and material deliveries during project construction.

### **5.6 Mitigation Measures (Operations)**

There were no project operational traffic impacts identified in this study. Thereby, no operations-related mitigations were proposed in the AFC.

## **6. NUMBER OF PARKING SPACES**

The PEC parking layout, as depicted on the *Site Plan*, is designed to meet the Division's *Off Street Parking Design Standards*, namely, one space per every two employees, one handicap space, one visitor space, and one space for each dedicated facility vehicle. This equates to six employee spaces, one handicap space and one visitor space, for a total of eight parking spaces.

## **7. GOODS SOLD ON-SITE**

PEC will sell its only product, electricity, solely to PG&E as it is per the terms of the Power Purchase Agreement with PG&E. No goods or services will be sold on-site.

## 8. EQUIPMENT

The generating facility will consist of four (4) General Electric LMS100 natural gas-fired CTGs, each equipped with water injection to the combustors for reducing production of NO<sub>x</sub>, a SCR system with 19 percent aqueous ammonia injection to further reduce NO<sub>x</sub> emissions and an oxidation catalyst to reduce CO emissions. The total net generating capacity will be approximately 400 MW. Auxiliary equipment will include inlet air filters with evaporative coolers, turbine compressor section inter-cooler, mechanical draft cooling tower, circulating water pumps, water treatment equipment, natural gas compressors, generator step-up and auxiliary transformers, and water storage tanks. The following table lists major equipment information for the PEC.

### MAJOR EQUIPMENT INFORMATION

Description	Dimensions			
	Capacity	Length (ft)	Width (ft)	Height (ft)
Combustion Turbine Generators (4)	103 MW	130	30	40
Inter-cooler Heat Exchangers (4)	105 MMBtu/hr <sup>1</sup>	44	15	13.5
CTG Stacks (4)	--	--	14.5 diameter	90
Variable Bleed Vents, with Silencers (4)	--	--	12	53
CTG Auxiliary Skid	--	34	13	15
Hot SCR	--	70	25	35
Cooling Tower (5 Cells)	440 MMBtu/hr	151	42	42
Raw Water Storage Tank	500,000 gal	--	44, diameter	44
Demineralized Water Storage Tank	240,000 gal	--	35, diameter	35
Waste Water Collection Tank	20,000 gal	--	15, diameter	15
Administration/Control Building	--	65	40	20
Warehouse/Maintenance Building	--	60	40	28
Water Treatment Building	--	124	80	14
Electrical Building	--	56	15	20
Gas Compressor Enclosures (3)	--	27	17	15

<sup>1</sup> MMBtu/hr = million British Thermal Units per hour

This equipment is depicted in the Site Plan and the Elevation Plan. Major equipment is also shown on *Attachment 1 – Artist Rendering*.

## 9. SUPPLIES & MATERIALS

There will be a variety of supplies and materials stored and used during the construction and operation of PEC. The storage, handling, and use of all supplies and materials will be conducted in accordance with applicable laws, ordinances, regulations, and standards (LORS).

Chemicals will be stored in appropriate chemical storage facilities. Bulk chemicals will be stored in storage tanks, and other chemicals will be stored in returnable delivery containers. Chemical storage and chemical feed areas will be designed to retain leaks and spills. Dike and drain piping design will allow a full-tank-capacity spill without overflowing the dikes. For multiple tanks located within the same diked area, the capacity of the largest single tank will determine the volume of the diked area and drain piping. Drain piping for volatile chemicals will be trapped and isolated from other drains to eliminate noxious or toxic vapors. After neutralization, if required, water collected from the chemical storage areas will be directed to the cooling tower basin, or trucked offsite for disposal at an approved wastewater disposal facility. The aqueous ammonia storage and unloading area will have spill containment and ammonia vapor detection equipment. Aqueous ammonia will be transported and stored in a 20,000-gallon tank onsite, as a 19 percent solution, by weight.

Safety showers and eyewashes will be provided in the vicinity of all chemical storage and use areas. Hose connections will be provided near the chemical storage and feed areas to flush spills and leaks to the plant wastewater collection system.

Approved personal protective equipment will be used by plant personnel during chemical spill containment and cleanup activities. Personnel will be properly trained in the handling of these chemicals and instructed in the procedures to follow in case of a chemical spill or accidental release. Adequate supplies of absorbent material will be stored onsite for spill cleanup.

A list of the chemicals anticipated to be used at the generating facility and their locations is provided below. This list identifies each chemical by type, intended use, and estimated quantity to be stored onsite.

**HAZARDOUS MATERIALS AND WASTES USAGE  
AND STORAGE DURING OPERATIONS<sup>1</sup>**

<b>Material</b>	<b>Purpose</b>	<b>Usage/Day</b>	<b>Maximum Stored</b>	<b>Storage Type</b>
Acetylene	Welding	As needed	270 cf	Cylinder
Aqueous ammonia ([19% NH <sub>4</sub> (OH)])	NO <sub>x</sub> emissions control	300 lbs/day	20,000 gal	Aboveground tank
Acid (Sulfuric or HCL)	Cooling tower pH control		5,000 gal	Aboveground tank
Argon	Welding	As needed	270 cf	Cylinder
Cleaning Chemicals and Detergents	Miscellaneous cleaning	As needed	20 gal	Manufacturer containers
Diesel Fuel Oil	Emergency generator	As needed	2,000 gal	Tank.
Dispersant	Prevent particulate settlement deposit on cooling tower basin	As needed	200 gal	Aboveground container
Hydraulic Oil	Power transmission medium in hydraulically operated equipment	As needed	500 gal	55-gallon drums
Laboratory Reagents	Miscellaneous lab work	As needed	20 gal liquid 100 lbs solid	Manufacturers containers
Lubricating Oil	Bearing and sleeves lubrication	As needed	24,000	Lubricating sumps of turbines and 55-gallon drums
Mineral Transformer Insulating Oil	Provides overheating and insulation protection for transformers	As needed	60,000 gal	Transformers
Nitrogen	Transformers	As needed	275 cf	Cylinder
Scale/Corrosion Inhibitor	Prevent scale and corrosion in cooling tower circulation water lines	As needed	200 gal	Aboveground container
Sodium hypochlorite (12% wt NaOCl)	Biocide for condenser cooling water system water treatment	As needed	5,000 gal	Aboveground storage tank, plastic
Sulfuric acid for station batteries	Electrical/ctrl. Bldg., Combustion turbine, miscellaneous	As needed	100 gal	Battery

**10. NUISANCE CONDITIONS**

**10.1 Noise**

This sub-section presents an overview of the Noise Study that was conducted and represented in the PEC AFC. The reader should refer to *AFC Section 5.12 – Noise for details* on the noise background measurements, facility projections, analysis, and regulatory setting.

The project site and surrounding land uses are generally agricultural, with some associated residential use. (The project site is described in Section 1.1.) The predominant noise sources in the area include vehicular traffic (automobiles and agricultural equipment) and industrial noise from mechanical equipment and processes at the existing Wellhead Power Panoche, LLC power plant and Pacific Gas & Electric (PG&E) substation.

Noise would be produced at the proposed project site, including the intake and discharge structures, during construction and operation of the project. Potential noise impacts from both project phases were studied.

**10.1.1 Construction Noise.** Construction at the project site would result in a short-term temporary increase in the ambient noise level near the construction activity. The magnitude of the increase would depend on the type of construction activity, the noise levels generated by various pieces of construction equipment, the duration of the construction phase, and the distance between the noise sources and receiver. Construction would occur during the daytime hours (7:00 a.m. to 7:00 p.m. [5:00 p.m. on Saturday or Sunday]). Construction noise is expected to comply with Fresno County Ordinance Code requirements. No significant impacts would occur.

**10.1.2 Operational Noise.** Project operation would involve the introduction of noise-generating equipment. The overall noise level generated would depend upon the physical layout of the facility, noise generation of equipment, numbers of individual equipment units, and the noise control measures incorporated into the facility design. Noise-producing equipment is listed in the following table.

#### EQUIPMENT SOUND POWER LEVELS

Noise Source	Sound Power Level (dB) at Octave Band Center Frequency (Hz)									
	31.5	63	125	250	500	1000	2000	4000	8000	A-Wt
Air Compressor Skid	95	102	100	100	97	96	95	94	90	103
Ammonia Forwarding Pumps	91	102	96	96	93	92	91	90	86	98
Ammonia Injection Skid	91	102	96	96	93	92	91	90	86	98
Circulating Water Pumps	96	103	101	101	98	97	96	95	91	103
Cooling Tower (per cell)	105	106	104	100	97	97	97	97	104	106
Auxiliary Skid	85	87	92	104	106	102	99	101	80	108
Cooling/Purge Air Fans	51	90	104	96	96	95	85	80	82	98
Air Inlet Filter House	108	106	101	91	71	66	77	90	90	94
Generator Enclosure Walls	107	106	106	94	89	90	86	77	77	96
Generator Exhaust Silencer, Damper & Exit	111	103	108	96	81	78	77	75	76	94
Generator Vent Fan Motor & Shell Surfaces	-	102	102	91	78	73	71	68	65	88
Inlet Silencer Shell Surfaces	-	101	94	91	84	79	75	71	63	87
Turbine Enclosure Walls	108	105	101	95	91	84	85	87	83	95

Turbine Vent Fan Discharge	103	105	98	96	84	85	86	83	76	93
Turbine Vent Fan Shell, Motor & Silencer Shell Surfaces	101	98	99	99	91	89	84	85	80	96
Step-Up Transformer	95	101	103	98	98	92	87	82	75	98
Demineralized Water Pumps	91	102	96	96	93	92	91	90	86	98
Fire Water Pump Building	101	104	98	92	78	69	62	56	55	86
Fuel Gas Compressor	114	112	107	104	102	102	100	96	92	107
Fuel Gas Compressor Aftercooler	69	109	122	115	109	106	105	105	107	114
Fuel Gas Regulator Skid	-	-	-	88	90	95	105	103	95	109
Raw Water Pumps	91	102	96	96	93	92	91	90	86	98
Selective Catalytic Reduction Unit	121	116	113	106	97	83	76	68	51	102
Wastewater Forwarding Pumps	91	102	96	96	93	92	91	90	86	98
Turbine Exhaust Duct Casing	116	104	103	104	99	90	87	84	65	100
Turbine Exhaust Stack	140	132	134	140	141	133	130	130	118	141
Turbine Exhaust Stack Silencer	-2	-6	-14	-27	-35	-30	-26	-15	-7	-35

Source: Bibb and Associates, Inc.

Project noise control measures include an exhaust stack silencer, an enclosure around the fuel gas compressors, and a 30-foot high barrier adjacent to the fuel gas compressors and combustion turbine generators.

Acoustical calculations were performed to estimate the sound level from the project at the Noise Sensitive Areas (NSAs) identified as ML1, ML2, and ML3 on *Attachment 2 – General Vicinity*. From the center of the site, ML1 is approximately 1,900 feet northeast, ML2 is approximately 800 feet north and ML3 is approximately 3,300 feet northeast. There are scattered structures that could provide acoustical shielding near ML1 and ML3. There are no other NSAs within one mile of the project site.

Left unabated, PEC power plant operational noise levels at the two closest receptors, ML-2 and ML-1, would exceed the Fresno county nighttime noise limit. To mitigate this projected noise condition on ML-1 and ML-2, PEC proposed the following plan to the CEC in its Issues Notification Response dated December 8, 2006:

“ML-2 consists of potentially three small residential buildings. The Applicant is working with the owner of these residences toward reaching an agreement whereby these receptors would not be used as a residences for the 20-year operational duration of the power plant. Under such an agreement, the Applicant will relocate the current residents to an acceptable location of sufficient distance from the proposed project site to eliminate the need for additional noise mitigation measures. The relocation will occur prior to the operational start-up of the power plant.”

“ML-1 consists of a five-unit one-story residential complex. Given the added distance from the PEC site, these receptors would be affected to a lesser extent than those of ML-2. The Applicant is evaluating abatement designs that would limit noise levels at ML-1 to meet County standards. Meanwhile, it should be noted that Starwood Power – Midway, LLC (Starwood) filed an AFC with this Commission on November 17, 2006 (AFC 06-AFC-10). The proposed Starwood project will be located approximately 460 feet from ML-1. (Starwood AFC, Section 5.12.5.1). The Starwood AFC, in section 5.12.5.1, points out “A signed agreement is in place between the landowner of the 5-plex at ML-1 and Starwood-Power Midway, LLC to relocate the current residences.”

If Starwood implements its agreement with the landowner to relocate the residents at ML-1, then PEC will not have to implement its abatement design. Conversely, if Starwood does not implement its agreement, PEC will implement its noise abatement design. Under either scenario, the PEC will be able to demonstrate compliance with the Fresno County noise standards.”

## **10.2 Glare**

Glare from PEC is expected to be minimal due to the site arrangement and choice of building materials. Exposed building, structure and related improvement materials constructed mostly of various metals and alloys. The surfaces of most of these exterior building materials will be protected by coatings such as paints, galvanizing and anodizing. Glare will occur mainly from reflections of glass windows of the office/control room building. Windows are not proposed in any of the other structures. Notwithstanding the limited sources for glare, PEC will be surrounded on the north, west and south sides by pomegranate trees (approximately 10' tall) and the PG&E Panoche Substation to the east, thereby greatly reducing line-of-site reflections from facility. *Attachment 1- Artist Rendering* the PEC facility relative to its surroundings. *Attachment 2 – General Vicinity*, also shows the rural nature of the PEC surroundings.

## **10.3 Dust**

Fugitive dust from the PEC construction and operating phases were studied and results submitted as part of the PEC AFC Section 5.2 – Air Quality. The AFC Air Quality section presents site ambient conditions, projected construction phase impacts and projected operational phase impacts. The study was conducted and presented in regard to “criteria pollutants, which include or contribute to dust (particulate matter). The overview of the Air Quality study presents information on all the criteria pollutants.

### **10.3.1 Construction Emissions**

The primary emission sources during construction will include exhaust from heavy construction equipment and vehicles and fugitive dust generated in areas disturbed by tree removal, well construction, grading, excavating, and erection of facility structures.

Construction activities are associated with four areas of development: a 12.8-acre site where the new turbines will be located; an 8-acre laydown area that will be used as a parking area during the construction phase, a 1.0-acre area north of the site where the natural gas pipeline will be connected, and a 1.1-acre site adjunct to the existing substation. While emission estimates include all areas of development, the construction schedule calls for the project site to be disturbed during various construction phases. Fugitive dust will be greatly reduced during earthwork and construction vehicle movement by applying water as needed.

### **10.3.2 Operational Emissions**

The most important emission sources during the operational phase of the project will be the four simple-cycle combustion turbine generators (CTG) burning exclusively natural gas fuel. Annual operational emissions from each of the four project CTGs were estimated by summing the emissions corresponding to normal operating conditions, limited hours of maintenance operations without emissions controls, and turbine startup/shutdown conditions. Estimated annual emissions of air pollutants for each turbine have been calculated based on 5,000 hours of normal operation, which includes up to 20 hours of maintenance (operation without SCR and CO catalyst), and up to 365 startup and shutdown events for each CTG.

Details of projected construction and operational-related emissions are presented in the *AFC Section 5.02 – Air Quality*.

### **10.4 Odor**

Since the four units will run exclusively on natural gas, the combustion sources will not directly emit odors. The only likely source of odors will result from the handling and use of 19% liquid ammonia. Incidental air-borne ammonia will be emitted during ammonia unloading. During normal operations, ammonia will be limited to 10 parts per million (PPM). This will not contribute to odor concerns beyond the facility boundary.

## **11 SOLID & LIQUID WASTES**

Construction and operation of PEC will produce wastes typical of natural gas-fueled power generation facility. These wastes include oily rags, broken and rusted metal and machine parts, defective or broken electrical materials, empty containers, and other solid wastes, including the typical refuse generated by workers. Recyclable materials will be taken offsite. Waste collection and disposal will be in accordance with applicable regulatory requirements to minimize health and safety effects.

**11.1 Construction Waste.** Construction of the PEC will generate wastes typical for the construction of simple-cycle, natural gas-fired combustion turbine power generation plants. Typical wastes will include packing materials and dunnage, surplus excavated materials, excess materials trimmed from standard dimension materials whether wood, metal, wire, or other basic building materials, concrete spoil, temporary weather covers, consumable abrasive and cutting tools, broken tools, parts and electrical and electronic components, construction equipment maintenance materials, empty containers, oily rags, and other solid wastes, including the typical refuse generated by workers.

Solid waste will be segregated, where practical, for recycling. Non-recyclable waste will be placed in covered dumpsters and removed on a regular basis by a certified waste-handling contractor for disposal at a Class III landfill.

Hazardous wastes generated during construction and operation will be handled and disposed of in accordance with applicable laws, ordinances, regulations, and standards (LORS). Hazardous wastes will be either recycled or disposed of in a licensed Class I disposal facility, as appropriate.

Some hazardous solid waste, such as welding materials and dried paint, may also be generated. The hazardous waste will be collected in satellite accumulation containers near the points of generation. This waste will be moved daily to the contractor's 90-day hazardous waste storage area. The waste will be delivered to an authorized hazardous waste management facility, before the expiration of the 90-day storage limit.

Startup will generate wastes typical of normal operation plus initial cleaning wastes such as rags, consumable materials, and failed components. The following table lists solid waste types and amounts expected to be generated during construction.

**SOLID WASTE GENERATED DURING CONSTRUCTION**

<b>Waste Stream</b>	<b>Waste Classification</b>	<b>Amount</b>	<b>Treatment</b>
Paper, Wood, Glass, and Plastics from packing material, waste lumber, insulation, and empty non-hazardous chemical containers	Non-hazardous	50 tons	Onsite Dumpsters; Waste disposal facility (Class III landfill)
Excess Concrete	Non-hazardous	34 tons	Recycle or Waste disposal facility (Class III landfill)

<b>Waste Stream</b>	<b>Waste Classification</b>	<b>Amount</b>	<b>Treatment</b>
Metal, including steel from welding/cutting operations, packing materials, empty non-hazardous chemical containers, aluminum waste from packing material, and electrical wiring	Non-hazardous	13 tons	Recycle or Waste disposal facility (Class III landfill)
Oily Rags	Hazardous	2 to 3 55-gal drums	Recycled or disposed by certified oil recycler
Empty hazardous material containers-drums	Hazardous, Recyclable	2 cu. yard/week	Recondition, recycle, or Waste disposal facility (Class I)

**11.2 Operations Waste.** Operation of the facility will generate wastes resulting from processes, routine facility maintenance, and office activities. Non-hazardous waste during operation of the facility will be recycled to the greatest extent practical, and the remainder removed on a regular basis by a certified waste-handling contractor.

The plant will produce maintenance and plant waste typical of power generation operations. The following types of non-hazardous solid waste may be generated: paper, wood, plastic, cardboard, broken and rusted metal and machine parts, defective or broken electrical materials, empty non-hazardous containers, and other miscellaneous solid wastes including the typical refuse generated by workers.

Office paper, newsprint, aluminum cans, wood, insulation, yard debris, concrete, gravel, scrap metal, cardboard, glass, plastic containers, and other non-hazardous waste material will be recycled to the extent practical, and the remainder will be removed on a regular basis by a certified waste-handling contractor for disposal at a Class III landfill.

Hazardous waste will be accumulated at the generating facility according to California Code of Regulations (CCR) Title 22 requirements for satellite accumulation. Hazardous waste will be collected by a licensed hazardous waste hauler, using a hazardous waste manifest. Waste will only be shipped to an authorized hazardous waste management facilities. Biannual hazardous waste generator reports will be prepared and submitted to the Division of Toxic Substances Control (DTSC). Copies of manifests, reports, waste analyses, and other documents will be kept onsite and will remain accessible for inspection for at least 3 years.

Waste lubricating oil will be recovered and recycled by a waste oil-recycling contractor. Spent oil filters and oily rags will be recycled. Spent SCR and oxidation catalysts will be recycled by the supplier, if possible, or disposed of in a Class I landfill. Laboratory analysis wastes will be recycled if possible, or disposed of in a Class I landfill. The following table lists solid waste types and amounts expected to be generated during operation.

### **SOLID WASTE GENERATED DURING OPERATION**

<b>Waste Stream</b>	<b>Waste Classification</b>	<b>Amount</b>	<b>Treatment</b>
SCR Catalysts Unit	Hazardous	500 lbs every 3 to 5 years	Recycled by SCR manufacturer or disposed of in Class I landfill
CO Catalyst Units	Hazardous	500 lbs every 3 to 5 years	Recycled by manufacturer
Oily Rags	Hazardous	200 lbs/year	Recycled or disposed by certified oil recycler

Non-Hazardous liquid wastes will consist mainly of water treatment cooling tower blow-down wastewater. This liquid waste stream will be injected via dedicated and specially designed wells into underlying earth to about 5000 feet below the surface. Sanitary wastewater will be collected and disposed by leach field.

### **11.3 Hazardous Wastes**

Several methods will be used to properly manage and dispose of hazardous wastes generated by PEC. Waste lubricating oil will be recovered and reclaimed by a waste oil recycling contractor. Spent lubrication oil filters will be disposed of in a Class I landfill. Spent SCR and oxidation catalysts will be reclaimed by the supplier or disposed of in accordance with regulatory requirements.

The only chemical cleaning wastes are the detergent solutions used during turbine washing. These wastes, which contain primarily dust from the air and potentially compressor blade metals, will be temporarily stored onsite in portable tanks, monitored, and disposed of offsite by the chemical cleaning contractor in accordance with applicable regulatory requirements.

Workers will be trained to handle, store and dispose of hazardous wastes generated at the site in accordance with local, state and federal standards.

## 12 WATER USE

PEC process water will be supplied via two on-site production wells connected to a lower aquifer. Process water uses include fire protection water, plant service water, sanitary water, cooling tower makeup, combustion turbine NO<sub>x</sub> injection (after treatment), and combustion turbine inlet air evaporative cooler makeup (partly from treated water). The CTG injection water will be treated using a reverse osmosis (RO) system, followed by trailer-mounted demineralizers. The total maximum water withdrawal from the two production wells will be less than 1200 acre-feet per year.

These wells will also supply facility showers, sinks, toilets, eye wash stations, and safety showers in hazardous chemical areas. Signs will be posted to alert personnel that production well water is not for human consumption. Potable drinking water will be supplied by a bottled water purveyor.

Wastewater will be disposed of using a new deep well injection system. The deepwell locations are shown on the Site Plan. The combined wastewater discharge from the plant will consist of cooling tower blowdown, RO rejects, evaporative cooler blowdown, CTG intercooler condensation, and water effluent from the oil-water separator.

## 13 ADVERTISING

There will be no advertising appurtenances, such as billboards, associated with the PEC. There will be a facility identification sign near the entrance gate on Davidson Road that will read: "Panoche Energy Center, LLC." The specific size and design for this sign has not been established.

## 14 EXISTING & NEW BUILDINGS

Presently, the site consists entirely of pomegranate trees. As such, there are not existing structures on the site. Structures to be constructed are described below and are depicted on the *Site Plan* and *Attachment 3 – General Arrangement Elevation* drawing.

The power block will consist of four separate simple-cycle combustion turbine power generation trains, each consisting of one General Electric Energy LMS100 CTG, an Air Inlet System, an Intercooler and Variable Bleed Valve Silencer, a SCR system, one stack, a power control module, an intercooler motor control center, a fuel gas filter/separator, and a step-up transformer.

In addition to the four combustion turbine power generation trains, there will be a five-cell cooling tower, an ammonia storage tank, a natural gas compressor facility, a water treatment facility, and two auxiliary transformers. There will also be BOP mechanical and electrical equipment.

The major equipment will be supported on reinforced concrete foundations at grade, with pile-supports as necessary. Individual reinforced pads at grade will be used to support the BOP mechanical and electrical equipment. The gas compressors will be in an enclosed acoustic building for noise attenuation. The water treatment equipment will also be in an enclosed building.

Stacks. The SCR system will include an integral stack/silencer system. The stack will be a self-supporting steel stack, 90 feet tall, and will include the associated appurtenances, such as sampling ports, exterior ladders, side step platforms, a lighting system if required by FAA regulations, and electrical grounding.

Buildings. The plant buildings will include an administration and control building, a warehouse building, a water treatment building, a firewater pump building, switchgear modules, and a gas compressor building. Building dimensions are shown on Figure 3.5-1. The administration and control building will house the administrative areas and the control room for the new facility. All of the buildings will be supported on mat foundations or individual spread footings.

Transformer Foundations and Fire Walls. There will be four 13.8kV to 230kV step-up oil-filled transformers and two auxiliary oil-filled transformers. Each will be supported on reinforced concrete foundations at grade, with pile-supports as necessary.

Construction of a concrete retention basin around each transformer will provide oil containment, in the event of a failure of a transformer. Concrete firewalls are planned for each step-up transformer and auxiliary transformer to limit a potential transformer fire to its concrete basin area.

Yard Tanks. The yard water storage tanks will include the demineralized water storage tank (240,000 gallons), the raw water/firewater storage tank (500,000 gallons), and the wastewater collection tank (20,000 gallons). The yard storage tanks will be vertical, cylindrical, field-erected, or shop-fabricated steel tanks. Each tank will be supported on a suitable foundation consisting of either a reinforced concrete ring wall with an interior bearing layer of compacted sand for the tank bottom, or a reinforced concrete mat.

Roads. The new facilities will be served by the road network shown on the *Site Plan*. The site will be accessed from West Panoche Road via a new asphalt paved entrance road. All new roads, miscellaneous access drives, and permanent parking areas within the site boundaries will be asphalt paved.

On-Site Septic System. See *Section 18.3 – Sanitary System* below for a description of the septic system. The on-site septic system leach field is shown on the *Site Plan*.

## **15 BUILDINGS FOR OPERATIONS**

There are no existing buildings. Proposed buildings and structures are described in Section 14 above.

## **16 OUTDOOR LIGHTING & SOUND SYSTEMS**

Lighting will be provided in the following areas:

- Interior of buildings such as office, control, and maintenance
- Exterior at entrances to buildings
- Platforms and walkways
- Transformer and switchyard areas
- Plant roads
- Parking areas
- Entry gate
- Cooling tower

The amount of lighting will meet the requirements from a security, normal operations and maintenance, and safety standpoint. Lighting in areas not normally accessed as part of routine operation or to ensure safety of personnel and property (high illumination areas not normally occupied on a continuous basis) will be controlled by either switches or motion detectors.

Emergency lighting fixtures with integral battery packs will be located in areas of regular personnel traffic to allow exit from areas where normal lighting has failed. In areas with major control equipment and electrical distribution equipment, emergency lighting located in these areas will be sufficient to allow operations to reestablish auxiliary power during normal lighting failure.

## **17 LANDSCAPING & FENCING**

A chain-link security fence surrounding the perimeter of the site will enclose the new facility. A controlled-access gate will be located at the entrance off the new access road from Panoche Road. During construction, a temporary chain-link security fence will be erected around the outside perimeter of the laydown site. This fence will be removed at the conclusion of the construction phase.

Given its rural setting and surrounding pomegranate tree agricultural use, PEC does not propose to have any landscaping, per se. Incidental landscaping may be placed as part of the entrance gate sign. This detail has not been determined.

## 18 OTHER INFORMATION

### 18.1 Site Grading and Drainage Plan

**Construction Phase.** Construction is expected to begin in the Fall of 2008 and be completed by Late spring 2009. The expected schedule for the entire construction effort is provided below.

#### EXPECTED PEC CONSTRUCTION SCHEDULE

Injection Well Installation

Month 1

2 wells drilled

Production Well Installation

Months 2 and 3

2 wells drilled

Clearing and Grubbing (Removal of Trees)

Month 4

Civil Work (Site Grading)

Months 5 and 6

Facility Building

Months 7 - 16

Includes 8 months Concrete Pouring

Natural Gas Pipeline Construction

Month 13

Overlaps in time with Facility Building

Substation Expansion

Months 14 - 18

Overlaps in time with Facility Building

The existing site, as described in Section 1 above, is relatively level. See *Attachment 2 – General Vicinity* for existing topography of the site and surrounding area. According to the Federal Emergency Management Agency (FEMA), a small corner of the site is within the 100-year flood plain. No structures will be located within the flood plain area.

During the initial construction phases, including the installation of the wells and tree clearing, erosion potential will be relatively minimal. Site grading will begin during the civil work phase. Top soil will be removed and transported to nearby locations for re-use as topsoil. (This soil has been tested for pesticides, and has been determined to be non-hazardous.) Construction-grade soil will be imported, placed, graded and compacted to serve as a base for equipment and building structure foundations. The final grade elevations are shown on the *Site Plan*. During soil removal and site preparation, appropriate erosion methods will be used to ensure that sediments will not leave the construction site. As the final grade is established, the storm-water drainage and on-site infiltration pond will be constructed. This system, once constructed, will serve as a storm-water system during the remaining construction period and into the operational period.

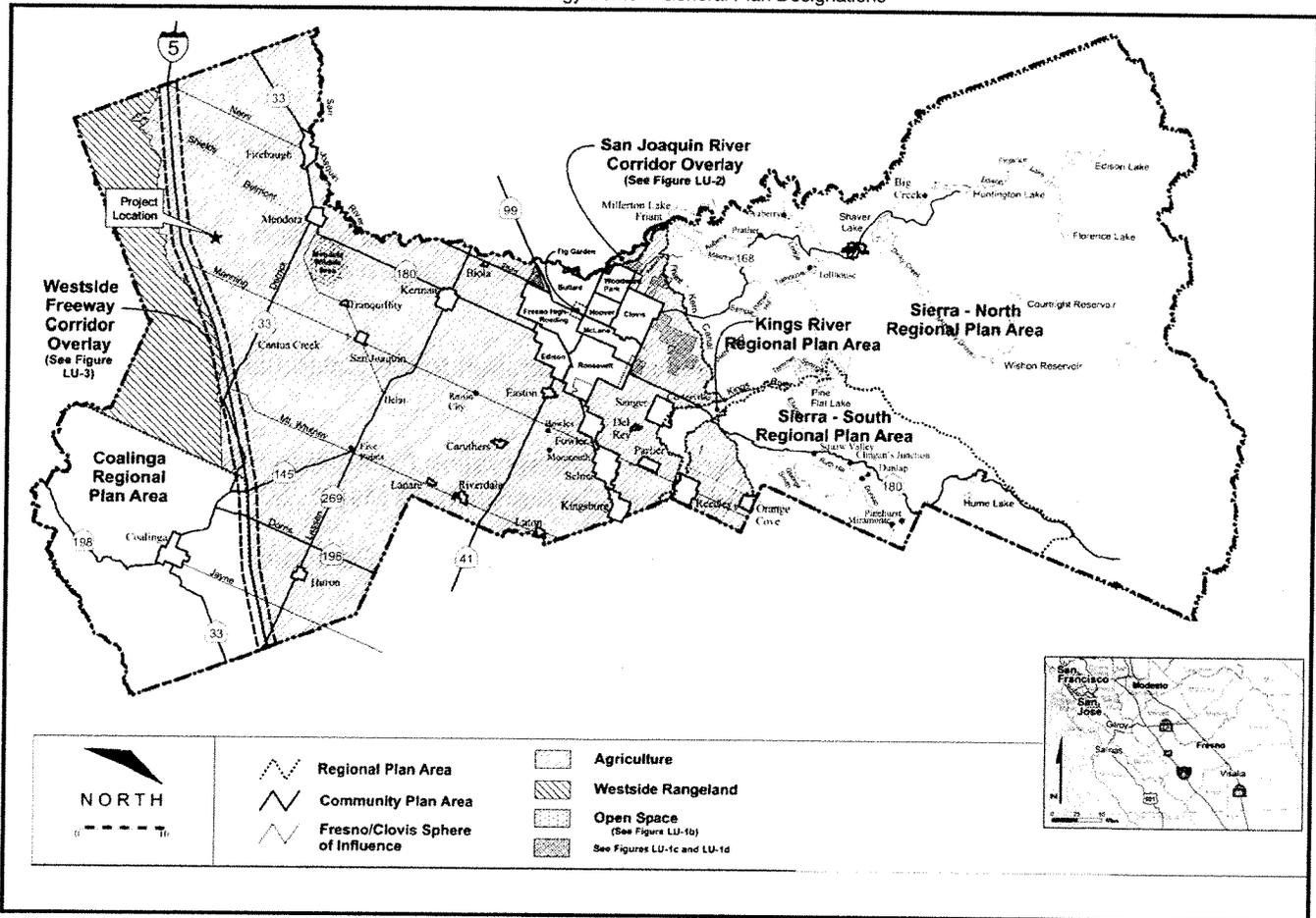
**Operational Period.** Operations are expected to begin in June 2009. Once the site final grade is developed and the storm-water system is constructed during the construction phase, all drainage on the site will be collected and managed on-site. The infiltration pond will serve as the final repository for all drainage that does not evaporate. In addition to serving as a storm-water management system, it will serve as a means to eliminate the possibility of any material releases from exiting the site.

The plant site will consist of paved roads, paved parking areas, and graveled areas. Storm water will be conveyed by overland flow and swales to an infiltration basin located at the southeast corner of the proposed site. The infiltration basin will serve as a storm water treatment facility to manage the quantity of storm water runoff from the proposed site. The infiltration basin is sized to capture 85 percent of the annual storm water runoff from the site according to standards set in the "California Storm Water BMP Handbook." The infiltration basin will also serve to manage peak storm water runoff during 100-year 24-hour storm events. The peak runoff for the developed conditions will not exceed the peak runoff rate of the existing conditions. Refer to the *Site Plan* for location

A Storm Water Pollution Prevention Plan (SWPPP) will be prepared prior to construction of the PEC. This plan will be utilized at the PEC site to control and minimize storm water during the construction of the facility. The plan will use best management practices such as stabilized construction entrances, silt fencing, berms, hay bales, and detention basins to control runoff from all construction areas. Storm water will be conveyed by overland flow and swales to an infiltration basin located at the southeast corner of the proposed site. The infiltration basin will serve as a storm water treatment facility to manage the quantity of storm water runoff from the proposed site.

LAND USE - FIGURE 1  
 Panoche Energy Center - General Plan Designations

FEBRUARY 2007



LAND USE

## REFERENCES

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- PEC (Panoche Energy Center Project) 2006a – Application for Certification. Submitted to the California Energy Commission on August 2, 2006.
- California Dept of Conservation (CDOC) 2006a – Comments and Recommendations. Submitted to the California Energy Commission on September 28, 2006.
- PEC (Panoche Energy Center Project) 2006e – Supplement to the Application for Certification. Submitted to the California Energy Commission on November 7, 2006.
- PEC (Panoche Energy Center Project) 2006f – Petition for Partial Cancellation of Williamson Act Contract No. 367-APN-027-060-78s. Submitted to the California Energy Commission on December 1, 2006.
- PEC (Panoche Energy Center Project) 2007a – Data Responses. Submitted to the California Energy Commission on January 9, 2007.
- California Dept of Conservation (CDOC) 2007a – Tentative Approval of Land Conservation Contract Cancellation. Submitted to the California Energy Commission on February 23, 2007.
- FRES (Fresno County) 2007a – Site Plan Review. Submitted to the California Energy Commission on April 10, 2007.
- FRES (Fresno County) 2007b – Agricultural Land Conservation Committee Staff Report. Submitted to the California Energy Commission on May 1, 2007.
- Tani, Robin. Senior Planner, Fresno County Planning Department. Personal communication with staff in December 2006.
- Tani, Robin. Senior Planner, Fresno County Planning Department. Meeting with Amanda Stennick and David Jenkins in January 2007.

Should the Energy Commission certify the project, staff recommends that the Energy Commission adopt the following conditions of certification.

## **PROPOSED CONDITION OF CERTIFICATION**

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**LAND-1** The project owner shall mitigate for the loss of 15 acres of prime farmland at a one-to-one ratio.

**Verification:** The project owner shall provide a mitigation fee payment to a Fresno County agricultural land trust or a statewide agricultural land trust at least 30 days prior to the start of construction. The fee payment will be determined by Fresno County and the project owner and set forth in a prepared Farmlands Mitigation Agreement (FMA), also determined between the project owner and Fresno County. The project owner shall provide a copy of the FMA to the Compliance Project Manager (CPM) for approval at the time of fee payment submittal. The FMA will require that 15 acres of prime farmland and/or easements shall be purchased within two years of start of construction as compensation for the 15 acres of prime farmland to be converted by the PEC. The FMA shall guarantee that the land managed by the trust will be located in Fresno County (if feasible) and will be farmed in perpetuity. The project owner shall provide to the CPM updates in the Annual Compliance Report on the status of farmland/easement purchase(s).

**LAND-2** The project owner shall design and construct the project to the applicable development standards in Sections 816.5 and 843 of the Fresno County Ordinance Code.

1. Any access gate shall be setback a minimum of 20 feet (or the length of the longest vehicle to initially enter the site from the edge of the ultimate road right-of-way).
2. The number of parking spaces required as part of this project shall be one space for every permanent employee, one space for each sales person, and one space for each company vehicle for a total of 6 spaces.
3. Each lot shall have a front yard of not less than 35 feet extending across the full width of the lot; each lot shall have a side yard on each side of not less than 20 feet.

**Verification:** At least sixty (60) days prior to the start of construction the project owner shall submit to the Compliance Project Manager (CPM) written documentation including evidence of review by Fresno County that the project conforms to the standards in Sections 816.5 and 843 of the Fresno County Ordinance Code.

**LAND-3** The project owner shall provide a copy of Fresno County's Final Certificate of Cancellation of Contract from Agriculture Preserve No. 367.

**Verification:** At least 60 days prior to construction, the project owner shall submit to the CPM a copy of Fresno County's Final Certificate of Cancellation of Contract from Agriculture Preserve No. 367.

period was still in effect. In the Tesla case as in the PEC, Alameda County conditioned its tentative approval of the cancellation upon Commission certification of the project.

- **Subdivision Map Act** – staff is satisfied that the applicant’s submittal of its site plan to Fresno County for the county’s SPR complies with the exemption provision of the Subdivision Map Act.

Because staff’s analysis can arguably show how the proposed project does not conform to the Fresno County General Plan Agriculture and Land Use Element and is not consistent with the AE-20 zone designation, staff suggests that the applicant work with Fresno County to resolve the issue of conformity prior to the publication of the Final Staff Assessment (FSA). In seeking resolution of local LORS, the applicant may want to ask Fresno County to address the four items from Policy LU-A.3 in the Fresno County Agriculture and Land Use Element and the four findings required for granting an unclassified conditional use permit in the AE-20 zone.

#### **Policy LU-A.3 in the Fresno County Agriculture and Land Use Element**

- The use shall provide a needed service to the surrounding agricultural area which cannot be provided more efficiently within urban areas or which requires location in a non-urban area because of unusual site requirements or operational characteristics;
- The use should not be sited on productive agricultural lands if less productive land is available in the vicinity;
- The operational or physical characteristics of the use shall not have a detrimental impact on water resources or the use or management of surrounding properties within at least 1/4-mile radius; and
- A probable workforce should be located nearby or be readily available.

#### **Findings required for granting an unclassified conditional use permit in the AE-20 zone.**

- That the site of the proposed use is adequate in size and shape to accommodate the use including all yards, spaces, walls, fences, parking, loading, landscaping, and other features required by the use.
- That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
- That the proposed use will have no adverse effect on abutting property and surrounding neighborhood or the permitted use thereof.
- That the proposed use is consistent with the Fresno County General Plan.

Staff is satisfied that as conditioned, the proposed PEC would not have a significant adverse affect on the environmental justice population living within the project’s six-mile radius. The project would convert 15 acres of prime soil to a non-agricultural use. Staff’s proposed Condition of Certification **LAND-1** will reduce this impact to less than significant.

Staff has insufficient information for reaching an agreement with the DOC's conclusions about the project's consistency with Fresno County's General Plan land use policies. Also, the DOC's letter does not address the direct loss of prime farmland. Staff's analysis concluded that the conversion of this farmland to a non-agricultural use would result in a significant impact requiring mitigation. Therefore, staff proposes condition of certification **LAND-1**, which would require the project owner to mitigate for the loss of prime farmland at a one-to-one ratio. Staff believes that with the adoption of this condition, the impact to farmland will be reduced to less than significant.

Fresno County submitted to the Energy Commission their Agricultural Land Conservation Committee Staff Report Agenda Item No. 3, April, 4, 2007 on the proposed Williamson Act cancellation for the 12.8 acres of prime farmland (see **Land Use Appendix 2** for the full text). In its staff report, Fresno County makes a recommendation of approval to the Board of Supervisors for the cancellation of the 12.8 acres.

Staff has insufficient information for concurrence with Fresno County's conclusions that support its statement that "...the cancellation is for an alternative use that is consistent with the provisions of the County General Plan." The County, in its staff report recognizes that its "...General Plan allows for development of certain non-agricultural uses in areas designated for Agriculture." However, staff believes the County does not provide an adequate discussion of the proposed power plant's consistency with the provisions and intent of the Agriculture land use designation or provide a discussion as to how the County allows for such nonagricultural uses as a power plant in areas designated Agriculture.

Fresno County's May 2, 2007 letter (docketed May 7, 2007) to Energy Commission staff is discussed under the section **Fresno County General Plan**.

## **CONCLUSIONS**

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Energy Commission staff cannot conclude that the PEC complies with all applicable LORS. The following conclusions summarize staff's analysis.

- **Fresno County General Plan Agriculture and Land Use Element** – staff cannot conclude that the PEC is consistent with the Agriculture land use designation because power plants are not expressly listed as a permitted or conditional use under that designation and Fresno County has not provided sufficient information that would demonstrate how the PEC is substantially similar in character and intensity to such uses listed Table LU-3.
- **Fresno County Zoning Ordinance** - staff cannot conclude that the PEC is consistent with the AE-20 zoning designation because power plants are not expressly listed as a permitted or conditional use in that zone and Fresno County has not provided sufficient information in its SPR analysis to determine whether the project would be consistent with the intent and purpose of the AE-20 zone.
- **Williamson Act** – Fresno County's 180-day appeal period for the cancellation would begin once the County issues the Tentative Certificate of Cancellation. In the most recent siting case (Tesla) the Commission certified the project while the appeal

has been used as a storage yard and for farm worker housing. Staff notes that although the Starwood site has not been used for recent crop production, it remained in a Williamson Act contract until April 2007.

Because the Starwood Midway site would be located in an area dominated by agricultural use, staff used the LESA model to determine whether it would have a significant land use impact. Staff's analysis showed that the Starwood Midway project also would have a significant impact on agricultural resources. To mitigate this impact, in the Starwood Midway PSA, staff proposes a condition of certification similar to **LAND-1** in this PSA. Therefore, with mitigation, there will be no net loss of agricultural land in Fresno County as a result of the PEC and the Starwood Midway projects and no cumulative significant impact to land use from conversion of agricultural land to nonagricultural uses.

In addition to the two proposed energy projects, existing land uses in the immediate vicinity (other than agriculture, farm residences, and related buildings), include the PG&E Panoche Substation, the CalPeak Peaker Plant, and the Wellhead Power Generation facility. The CalPeak Peaker Plant and the Wellhead Power Generation facility were permitted by Fresno County within the last few years. Because the proposed project is situated near other nonagricultural industrial/energy uses, it would not result in a physical division or disruption of the established agricultural community, no new physical barriers would be created by the project, and no existing roadways or pathways would be blocked that would be detrimental to agricultural uses.

## **RESPONSE TO AGENCY AND PUBLIC COMMENTS**

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The Department of Conservation (DOC) submitted a letter to the Energy Commission (docketed on September 28, 2006) commenting on the proposed PEC's AFC. The DOC concluded that "...prior to any activity related to placing the PEC on the subject contracted parcel, the involved contract must be terminated by nonrenewal or cancellation for the portion of land involving the plant and access road..."

Staff concurs with the DOC's September 28, 2006 letter.

The DOC submitted a letter (dated January 19, 2007) to Fresno County (docketed on February 23, 2007) commenting on the partial cancellation of Land Conservation (Williamson Act) Contract No. 367; APN 027-060-78S. The DOC concluded that assuming the information the applicant provided on the cancellation application is accurate and correct, the DOC concurs that the Fresno County Board of Supervisors has a basis to find cancellation of the 12.82-acre portion of the contract consistent with the purposes of the Williamson Act, that development of the proposed power generation facility will not negatively affect adjacent agricultural lands or cause their removal from agricultural use, that the proposed alternative use appears consistent with the agricultural land use policies in the Fresno County General Plan, and due to the location of the existing PG&E substation, will not produce discontinuous patterns of urban development. Overall, the DOC letter concurs that there is not proximate or noncontracted land that is suitable or available for the proposed PEC.

(see **Land Use Appendix 4**). Under the California LESA scoring threshold a score between 80 and 100 points is significant.

When staff identifies a significant impact, staff's analysis needs to discuss how that impact would affect the environmental justice population (**Socioeconomics Figure 1**) within the project's six-mile radius. The direct and indirect impacts of project construction would be that 15 acres of agricultural land would be converted to a nonagricultural use. When agricultural land is converted, the effect can be experienced by the residents of the area as a loss of open space, a loss of farmland, and the encroachment of urban uses into a nonurban setting.

Another effect of the loss of 15 acres of prime farmland would be an economic one for those who are directly and indirectly employed in the farming sector of the area's economy. Because CEQA considers the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses a significant impact requiring mitigation, staff proposes a similar condition of certification that was used on other Energy Commission siting projects (Tesla, Salton Sea, East Altamont) where agricultural land was converted to nonagricultural uses. Condition of Certification **LAND-1** requires the project owner to mitigate for the loss of 15 acres of prime farmland at a one-to-one ratio. Staff believes that with the adoption of this condition, the impact to farmland will be reduced to less than significant and any impact to the environmental justice population would be mitigated because there would be no net loss of productive agricultural land within Fresno County.

## **LAND USE COMPATIBILITY**

Energy Commission staff has found no unmitigated impacts in the areas of **Noise, Air Quality, Public Health, Traffic and Transportation**, and **Visual Resources**. Because the PEC would create no unmitigated noise, dust, public health hazard or nuisance, traffic, or visual impacts the project would be compatible with surrounding land uses. As discussed earlier, no aerial spraying is done in this area that might necessitate a buffer between the proposed PEC and adjacent agricultural operations. Therefore, staff does not expect the PEC to preclude or negatively impact the continued agricultural use of the remainder of the parcel or that of the surrounding area.

## **CUMULATIVE IMPACTS AND MITIGATION**

A project may result in a significant adverse cumulative impact where its effects are cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. (Cal. Code Regs., tit. 14, section 15130.)

The PEC is planned to serve the region's existing and anticipated electrical needs. Staff does not expect the PEC to make a significant contribution to regional impacts related to new development and growth.

Both the PEC and Starwood Midway projects would be situated in an area dominated by large agricultural parcels under Williamson Act Contracts. Although the proposed Starwood Midway site is classified as having prime soils, for the past five years the site

Based on Fresno County's SPR analysis of the proposed project, Energy Commission staff cannot conclude that the SPR satisfies Fresno County's unclassified use permit process. An SPR normally, but for the Energy Commission's exclusive jurisdiction merely ensures the project's compliance with the development standards in the AE-20 zone. For these reasons and those discussed above, staff cannot conclude that the PEC would be consistent with the AE-20 zone designation.

## **DISRUPT OR DIVIDE AN ESTABLISHED COMMUNITY**

While the proposed project is located in an area dominated by agriculture, there are three existing energy uses within one-half mile of the proposed PEC: the Wellhead Peaker Plant; the CalPeak Peaker Plant; and the PG&E Substation. The two peaker plants (both under 50 MW) were approved by Fresno County within the last few years. Another proposed energy facility, the Starwood Midway Energy Project (06-AFC-7) is currently under Energy Commission review and would be located north of the existing electrical generating uses and PG&E Substation on the same 128-acre parcel as the PEC. Given the existing cluster of energy/industrial uses, development of the proposed site as an energy/industrial use would continue the trend toward industrial development in the immediate area. Because of the established pattern of energy/industrial uses, the proposed project would not result in a physical division or disruption of the established agricultural community. No new physical barriers would be created by the project and no existing roadways or pathways would be blocked that would be considered detrimental to agricultural use.

## **CONVERSION OF PRIME FARMLAND**

The 12.8-acre project site and 8-acre laydown area consist of prime, irrigated soils planted in a mature pomegranate orchard. According to section 5.4 of the AFC, the project site has been irrigated for many years. The 8-acre laydown area will be replanted in pomegranates after project construction. Therefore, staff does not consider the temporary use of this acreage for a laydown area to be a significant impact to agriculture.

State CEQA Guidelines Appendix G provides direction to lead agencies when determining whether impacts to agricultural resources are significant environmental effects. Appendix G states that lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment (LESA) model prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. The LESA model provides an approach for rating the relative quality of land resources based upon specific measurable features. The California LESA model is composed of six different factors: two Land Evaluation factors based upon measures of soil resource quality; and four Site Assessment factors that provide measures of a given project's size, water resource availability, surrounding agricultural lands, and surrounding protected resource lands.

Staff used the LESA model to determine whether the project's conversion of the 12.8 acres would be significant. Because staff considers the conversion of the 2.2 acres for the Panoche Substation expansion an indirect impact of the project, staff included that acreage in its LESA analysis. Staff determined the final LESA score to be 84.5 points

<b>Setbacks:</b> Each lot shall have a front yard of not less than 35 feet extending across the full width of the lot; each lot shall have a side yard on each side of not less than 20 feet.	Consistent as proposed. The applicant's site plan shows that the footprint of the PEC is outside the 35-foot front yard and 20-foot side yard setbacks. Therefore, the project meets Fresno County's setback requirements.
<b>Parking:</b> The number of parking spaces required is 1 space for every 2 permanent employees, 1 space for each salesperson, and 1 space for each company vehicle.	Consistent as proposed. For the project to conform to this standard a minimum of 6 parking spaces would have to be provided. The applicant's site plan shows 8 parking spaces.
<b>Off-Site Improvements:</b> The project owner shall ensure that any access gate shall be setback a minimum of 20 feet (or the length of the longest vehicle to initially enter the site from the edge of the ultimate road right-of-way).	Consistent with implementation of a Condition of Certification. For the project to conform to this standard the site plan would need to show that any access gate shall be setback a minimum of 20 feet (or the length of the longest vehicle to initially enter the site from the edge of the ultimate road right-of-way. Staff's proposed Condition of Certification <b>LAND-2</b> would require the project owner to conform to this off-site improvement.

**AE-20 Zoning District, Section 816 of the Fresno County Ordinance Code**

The PEC site is zoned AE-20. The AE-20 District "is intended to be an exclusive district for agriculture and those uses which are necessary and an integral part of the agricultural operation. This district is intended to protect the general welfare of the agricultural community from encroachments of non-related agricultural uses which by their nature would be injurious to the physical and economic well-being of the agricultural district." Section 816 lists the uses permitted, the uses permitted subject to director review and approval, the uses permitted subject to a conditional use permit, uses expressly prohibited, and the property development standards. Staff's review of the uses for this zone shows that power plants are not expressly listed as a permitted or conditional use. Therefore, similar to the discussion of the project's consistency with the Fresno County General Plan land use designation, staff cannot conclude that the proposed project would be consistent with the AE-20 zoning because power plants are not expressly listed in any of the use categories of this zone and because Fresno County's SPR analysis did not address whether the project would be consistent with the intent and purpose of the AE-20 zone designation.

According to Fresno County staff, each zone district in Fresno County has a list of uses allowed by right and uses allowed through a discretionary permit such as a Director Review and Approval, or a Conditional Use Permit, which may be classified or unclassified (Tani 2006). The AFC states that Fresno County would ordinarily require an unclassified conditional use permit for a use such as the PEC (PEC 2006a). Listed below are the findings Fresno County would have to make for an unclassified conditional use permit were it the permitting authority.

- That the site of the proposed use is adequate in size and shape to accommodate the use including all yards, spaces, walls, fences, parking, loading, landscaping, and other features required by the use.
- That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
- That the proposed use will have no adverse effect on abutting property and surrounding neighborhood or the permitted use thereof.
- That the proposed use is consistent with the Fresno County General Plan.

mechanism that enables the county to allow through a discretionary permit, the non-agricultural uses listed in Table LU-3 in areas designated Agriculture.

Therefore, Energy Commission staff cannot conclude that the PEC would be consistent with the Fresno County General Plan Agricultural and Land Use Element.

**Fresno County Zoning Ordinance**

***Site Plan Review Section 874 of Fresno County’s Ordinance Code***

To assess conformity with the exemption provision of the Subdivision Map Act, Fresno County and Energy Commission staffs required the applicant to submit a site plan to Fresno County and complete the County’s SPR process (Section 874 of Fresno County’s Ordinance Code). Section 874 states that, “The purpose of the site plan is to enable the Director to make a finding that the proposed development is in conformity with the intent and provisions of this Division and to guide the Development Services Division in the issuance of permits.” The County is aware that their SPR is advisory and their actions in this matter represent a review of the project that the County would normally undergo but for the Energy Commission’s exclusive jurisdiction and permit authority.

The applicant submitted its site plan to Fresno County on January 26, 2007. Fresno County submitted its SPR analysis to the Energy Commission (docketed April 10, 2007). In its SPR process, Fresno County determined that as conditioned, the proposed PEC would be in conformity with the development standards for the AE-20 zone. In addition to zoning development standards, the SPR addresses and conditions the project in the areas of visual resources, drainage and flood control, health, waste, hazardous waste, facility design, socioeconomic resources, worker safety and fire protection, air quality, and traffic and transportation.

Staff reviewed Fresno County’s SPR and determined that as conditioned, the PEC would meet the development standards of the AE-20 zone. However, Fresno County provided no information in its SPR that addressed whether the project is in conformity with the intent and provisions of the AE-20 zoning district. **Land Use Table 2** shows the development standards and staff’s consistency determination for the PEC. Fresno County’s proposed conditions of approval have been analyzed by Energy Commission staff and incorporated as **LAND-2**.

**LAND USE Table 2  
Development Standards and Consistency Determination for PEC**

<b><u>Development Standards for the AE-20 Zone. Zoning Ordinance Sections 816.5</u></b>	<b><u>Consistency Determination</u></b>
<b>Lot Size:</b> Each lot size shall have a minimum acreage as indicated by the district acreage designation. The minimum lot size in the AE-20 zone is 20 acres.	Consistent as proposed. The proposed site would total 12.8 acres. Because the parcel would be created through a lease, it would not be subject to the 20-acre parcel size (Tani 2007).
<b>Building Height:</b> Non-dwelling structures and other accessory farm buildings are excepted from building height restrictions.	Consistent as proposed. Four 90-foot turbine stacks are proposed for the PEC. However, Fresno County does not limit the height of non-dwelling structures in the AE-20 zone.

According to information provided by the applicant, the location of a power generation facility within an urban environment has the potential to impact sensitive receptors such as schools and hospitals in addition to greater land use conflicts with residences. Further, the applicant indicated that the site selection investigation that was performed looked for land that was in sufficient proximity to the infrastructure listed above [PG&E substation, natural gas lines, and transmission lines]. The applicant reported that no less productive agricultural lands were identified as a result of the site selection investigation. Based on the information provided by the applicant, staff believes that the proposed alternate use is consistent with the General Plan. Based on this information, this finding can be made.”

Staff cannot conclude from Fresno County staff's report that it provided compelling evidence to recommend to the Board of Supervisors that the alternate use, in this case the PEC, is consistent with Fresno County's General Plan Agriculture and Land Use Element.

In the Fresno County General Plan Agriculture and Land Use Element, the Agriculture land use designation provides for the production of crops and livestock and for location of necessary agriculture commercial centers, agriculture processing facilities, and certain nonagricultural activities. Table LU-3 in the Fresno County General Plan Agriculture and Land Use Element lists uses allowed by right and by special permit in areas designated Agriculture. The special permit uses are agriculturally related and value added agricultural uses such as wineries, commercial packing, and processing of crops, or they are non-agricultural uses such as sewage treatment plants, cemeteries, radio and television broadcasting stations, and golf courses. The most closely related special permit uses comparable to a power generating facility in Table LU-3 would be “electrical substation” and “mineral extraction and oil and gas development.”

On April 17, 2007 Energy Commission staff sent a letter to Fresno County requesting that the County provide a discussion of how a use such as a power plant would be consistent with the provisions and intent of the Agriculture land use designation and with the uses allowed by right or by special permit listed in Table LU-3 in the General Plan Agriculture and Land Use Element. Fresno County's response letter to the Energy Commission (docketed May 7, 2007) states that Fresno County staff did discuss with Energy Commission staff, the basis for Fresno County's conclusion that the proposed project is consistent with the County's General Plan. The letter also states that the Fresno County Board of Supervisors concurred with its staff and determined that the proposed use is consistent with the General Plan when they approved the petition for partial cancellation of the 12.8-acre site from the Williamson Act.

While Energy Commission staff does not disagree with Fresno County's letter, staff believes that Fresno County has not provided Energy Commission staff a discussion of how the proposed project is substantially similar in character and intensity to such uses listed Table LU-3 in the Fresno County General Plan Agriculture and Land Use Element that would warrant a determination of consistency. In addition, Fresno County has not, in its staff report for cancellation or in its response to Energy Commission staff's letter addressed the four criteria listed in its general plan Policy LU-A.3, which is the

The **Water and Soil Resources** section has concluded that with mitigation, the PEC would not significantly impact water resources on the site or impact the use or management of surrounding properties. The **Socioeconomic Resources** section of this document has concluded that a sizeable workforce is available in Fresno County and the surrounding region. Please refer to the sections on **Water and Soil Resources** and **Socioeconomic Resources** for a complete discussion on potential impacts and mitigation for water resources and construction workforce.

**Policy LU-A.13.** The county shall protect agricultural operations from conflicts with nonagricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations.

*No aerial spraying is done in this area that might necessitate a buffer between the proposed PEC and adjacent agricultural operations. Therefore, staff does not expect the PEC to preclude or negatively impact the continued agricultural use of the remainder of the parcel or that of the surrounding area.*

### **Energy Commission Staff's General Plan Consistency Determination for the PEC**

As part of the licensing process, the Energy Commission must determine whether a proposed facility complies with all applicable state, regional, and local LORS (Public Resources Code section 25523(d)(1)). The Energy Commission must either find that a project conforms to all applicable LORS or make specific findings that a project's approval is justified even where the project is not in conformity with all applicable LORS (Public Resources Code section 25525).

When determining LORS compliance, staff is permitted to rely on a local agency's assessment of whether a proposed project is consistent with that agency's zoning and general plan. On past projects staff has requested that the local agency provide a discussion of the findings and conditions that agency would make when determining whether a proposed project would comply with the agency's LORS, were they the permitting authority. Any conditions recommended by an agency are considered by Energy Commission staff for inclusion in the conditions of certification staff recommends for the project.

As part of staff's analysis of local LORS compliance and specifically to determine the County's view on the project's consistency with their general plan, staff reviewed Fresno County's Agricultural Land Conservation Committee Staff Report on the proposed Williamson Act cancellation. As stated in the section **California Land Conservation Act (Gov. Code § 51200-51297.4)**, one of the findings the Board of Supervisor's must make is whether the "cancellation is for an alternative use which is consistent with applicable provisions of the county general plan." In their staff report, Fresno County staff provided the following information.

"The subject property is designated Agriculture in the Fresno County General Plan. The proposed alternate use of the property is development of a thermal power plant... Nevertheless, the County's General Plan allows for development of certain non-agricultural uses in areas designated for Agriculture.

**Policy LU-A.1.** The county shall maintain agriculturally-designated areas for agriculture use and shall direct urban growth away from valuable agricultural lands to cities, unincorporated communities, and other areas planned for such development where public facilities and infrastructure are available.

*The proposed project would be sited on a parcel that is was formerly under a Williamson Act Contract in an area dominated by large agricultural parcels also in the Williamson Act. The proposed use is not an agricultural use nor is it considered an ancillary agricultural use because to function it does not need to locate adjacent to an agricultural use. On that basis, the project could be considered a use that would be more compatible in an area where industrially zoned land is available and where adjacent land uses are similar in character and intensity.*

**Policy LU-A.3.** The county may allow by discretionary permit in areas designated Agriculture, special agricultural uses and agriculturally related activities including value-added processing facilities, and certain non-agricultural uses listed in Table LU-3 (see **LAND USE Appendix 3** for the full text). Approval of these and similar uses in areas designated Agriculture shall be subject to the following criteria:

- The use shall provide a needed service to the surrounding agricultural area which cannot be provided more efficiently within urban areas or which requires location in a non-urban area because of unusual site requirements or operational characteristics;
- The use should not be sited on productive agricultural lands if less productive land is available in the vicinity;
- The operational or physical characteristics of the use shall not have a detrimental impact on water resources or the use or management of surrounding properties within at least 1/4-mile radius; and
- A probable workforce should be located nearby or be readily available.

*As stated in the AFC, the objectives of the PEC are to provide reliable service to PG&E's customer loads in the area, which would include agricultural as well as urban users. The PEC has specific site requirements (proximity to a substation and transmission lines) that would be provided by the adjacent PG&E substation. However, the PEC's operational characteristics (industrial nature of the project) do not require that the project locate in a non-urban area. Similar energy facilities have been sited in urban areas where the zoning and adjacent land uses are compatible with uses such as power plants.*

*The PEC would be located on productive agricultural lands in an area dominated by large agricultural parcels, also in agricultural production. In addition, the project site and most of the surrounding area within a one-mile radius are mapped Prime Farmland by the California Department of Conservation's Farmland Mapping and Monitoring Program. Because of the area's prime soils, less productive agricultural land in the vicinity of the proposed site is not available. The land use in the vicinity of the current proposed location that makes the site feasible is the adjacent PG&E substation, which would provide the necessary infrastructure that another site in the vicinity would not provide.*

As part of its staff report, Fresno County had to address Finding no. 2, which asks whether the cancellation “is not likely to result in the removal of adjacent lands from agricultural use.” In its response, Fresno County did not state that the cancellation of the 12.8 acres would require the cancellation of an additional 2.2 acres to accommodate the expansion of the PG&E Panoche Substation. Staff discusses the removal of the adjacent 2.2 acres from agricultural use under the heading **CONVERSION OF PRIME FARMLAND**.

The Board’s approval action and the findings are necessary to conclude that the cancellation of the Williamson Act contract has lawfully occurred, thereby permitting the power generation facility to be considered for this site. In addition to the Board’s approval, cancellation requires the issuance of a Final Certificate of Cancellation of the Williamson Act contract. According to Fresno County staff, the Final Certificate of Cancellation will be recorded when the following conditions of approval for the cancellation have been met.

1. Payment in full of the cancellation fee.
2. Unless the cancellation fee is paid or a Certificate of Cancellation of Contract is issued within one year from the date of the recording of this certificate, the cancellation fee shall be recomputed as of the date of notice by the landowner to the Board of Supervisors required by Government Code Section 51283.4.
3. The landowner shall obtain all permits necessary to commence this project.

As shown by condition no. 3, the Certificate of Cancellation of Contract will not be recorded until all permits, including the Energy Commission’s license are issued. Please refer to **Land Use APPENDIX 2** for a copy of the Board of Supervisors’ Resolution #07-203 and the Certificate of Tentative Cancellation. Interested parties would have up to 180 days to challenge the final cancellation.

### **Fresno County General Plan**

The Fresno County General Plan, adopted in 2000, contains an evaluation of existing conditions and provides long-term goals and policies to guide growth and development in the county for the next 15 to 25 years. The general plan is implemented by the county through its zoning, subdivision ordinances, specific plans, growth management policies, planned development districts, development agreements, development review, code enforcement, land use database, capital improvement programs, environmental review procedures, building and housing codes, and redevelopment plans. The general plan land use designation for the site is Agriculture.

Fresno County General Plan **Goal LU-A** states that the county shall promote the long-term conservation of productive and potentially productive agricultural lands and to accommodate agricultural-support services and agriculturally-related activities that support the viability of agriculture and further the county’s economic development goals.

The applicable land use policies from Fresno County’s General Plan Agriculture and Land Use Element are given below. *Staff’s discussion is given in italics after each policy.*

## COMPLIANCE WITH LORS

### **Subdivision Map Act (Pub. Resources Code § 66410-66499.58)**

The Subdivision Map Act provides procedures and requirements regulating land divisions and the determination of parcel legality. Regulation and control of the design and improvement of subdivisions by the Map Act have been vested in the legislative bodies of local government. Section 66412.1 of the Subdivision Map Act exempts a project from state subdivision requirements provided that the project demonstrates compliance with local ordinances regulating design and improvements. The project's compliance with local development standards is discussed under the heading **Fresno County Zoning Ordinance**.

### **California Land Conservation Act (Gov. Code § 51200-51297.4)**

The California Land Conservation Act, commonly referred to as the Williamson Act, enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space uses. The landowner commits the parcel to an annually renewing ten-year period wherein no conversion out of agricultural use is permitted. In return, the land is taxed at a rate based on the actual use of the land for agricultural purposes, as opposed to its unrestricted market value. Participation in the Williamson Act program is dependent on county adoption and implementation of the program. Property owner participation in the program is voluntary.

The proposed 12.8-acre project site was a portion of a 128-acre parcel within Fresno County Agricultural Preserve No. 367 that is under a Williamson Act Contract. The applicant filed a request with Fresno County for cancellation of the 12.8 acres from the Williamson Act Contract and on April 24, 2007, the Fresno County Board of Supervisors approved the request. Fresno County staff in its Agricultural Land Conservation Committee Staff Report Agenda Item No. 3, April, 4, 2007 recommended approval of the cancellation to the Board of Supervisors (see **Land Use Appendix 1** for the full text). In accordance with Government Code section 51282, the Fresno County Board of Supervisors made the following findings to approve the cancellation from Agricultural Preserve No. 367.

1. That the cancellation is for land on which a notice of contract nonrenewal has been filed.
2. That cancellation is not likely to result in the removal of adjacent lands from agricultural use.
3. That cancellation is for an alternative use which is consistent with applicable provisions of the city or county general plan.
4. That cancellation will not result in discontinuous patterns of development.
5. That there is no proximate (i.e. nearby) noncontracted land which is both available and suitable for the proposed use.

The zoning and general plan land use designations within one mile of the subject parcel are AE-20 and Agriculture, respectively. The project site and most of the surrounding area are mapped Prime Farmland by the California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP). **Land Use Figure 1** shows the general plan designations and **Land Use Figure 2** shows the zoning for the site and within one mile of the site. Other than agriculture, farm residences, and related buildings, land uses in the immediate vicinity of the proposed project include the PG&E Panoche Substation, the CalPeak Peaker Plant, and the Wellhead Power Generation facility.

As stated in the AFC and the PEC substation expansion letter (docketed May 7, 2007), there is limited land within the existing PG&E Panoche Substation so PG&E will expand the substation (located on APN 027-060-61SU) to interconnect to the PEC site. A lot line adjustment will be filed by PG&E to accommodate the expansion. All substation expansion work will be performed by PG&E. The expansion would total 96,000 square feet, or about 2.2 acres. The conversion of this 2.2 acres to a nonagricultural use is discussed under the heading **CONVERSION OF PRIME FARMLAND**. Other offsite improvements required by the PEC would include 2,400 linear feet of gas pipeline and a 300-foot transmission line to tie into the PG&E Panoche Substation.

## **ASSESSMENT OF IMPACTS AND DISCUSSION OF MITIGATION**

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### **METHOD AND THRESHOLD FOR DETERMINING SIGNIFICANCE**

Significance criteria are based on the CEQA Guidelines and on performance standards or thresholds adopted by responsible agencies. An impact may be considered significant if the project results in:

- conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect;
- disruption or division of the physical arrangement of the established community;
- conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps pursuant to the Farmland Mapping and Monitoring Program of the California Department of Conservation (i.e., a department within the California Resources Agency), to non-agricultural uses;
- conflict with existing zoning for agricultural use, or a Williamson Act Contract;
- involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to nonagricultural use;
- unmitigated noise, dust, public health hazard or nuisance, traffic, or visual impacts, or when it precludes or unduly restricts existing or planned future uses.

## LAWS, ORDINANCES, REGULATIONS, AND STANDARDS

The following table contains all applicable land use laws, ordinances, regulations, and standards.

**LAND USE Table 1**  
**Laws, Ordinances, Regulations, and Standards (LORS)**

<b>Applicable Law</b>	<b>Description</b>
<b>Federal</b>	The proposed project is not located on federally administered lands and is not subject to federal land use regulations.
<b>State</b>	Subdivision Map Act (Pub. Resources Code § 66410-66499.58), § 66412.1. Section 66412.1 of the Subdivision Map Act exempts a project from state subdivision requirements provided that the project demonstrates compliance with local ordinances regulating design and improvements.  California Land Conservation Act (Gov. Code § 51200-51297.4) Section 51282 addresses Williamson Act Contract cancellation procedures. In order for a contract to be cancelled, the local elected officials (e.g. a City Council or a County Board of Supervisors) need to make a series of findings and approve the cancellation.
<b>Local</b>	Fresno County would require an unclassified conditional use permit for the proposed project in the A-E 20 Zone, but for the exclusive siting authority of the Energy Commission.

## SETTING

The applicant proposes to build the PEC on a 12.8-acre portion of a 128-acre parcel in the northwestern section of the Westside Valley Area in Fresno County. The closest community to the project is Mendota, located 16 miles to the east and northeast of the proposed PEC. The site is located southeast of the intersection of West Panoche Road and Davidson Avenue, about 2 miles east of Interstate 5, and 14 miles west of Highway 33. Primary access to the site is from West Panoche Road via Interstate 5 or Hwy 33.

## PROJECT SITE AND VICINITY

The 12.8-acre project site was formerly a portion of a 128-acre parcel within Fresno County Agricultural Preserve No. 367, the remainder of which is still under a Williamson Act contract. In April 2007, the Fresno County Board of Supervisors approved the request for cancellation of the 12.8-acre site from the Williamson Act contract.

The proposed project would be located in an area of large agricultural parcels that are also under Williamson Act contracts. The Assessors Parcel Number (APN) for the 128-acre parcel is 027-060-78S. The project site is designated Agriculture by the Fresno County General Plan Agriculture and Land Use Element; the zoning designation is AE-20 (Exclusive Agriculture with a 20-acre minimum parcel size). The site is currently planted in pomegranates, as is the adjacent eight-acre laydown area.

# LAND USE

Amanda Stennick

## SUMMARY OF CONCLUSIONS

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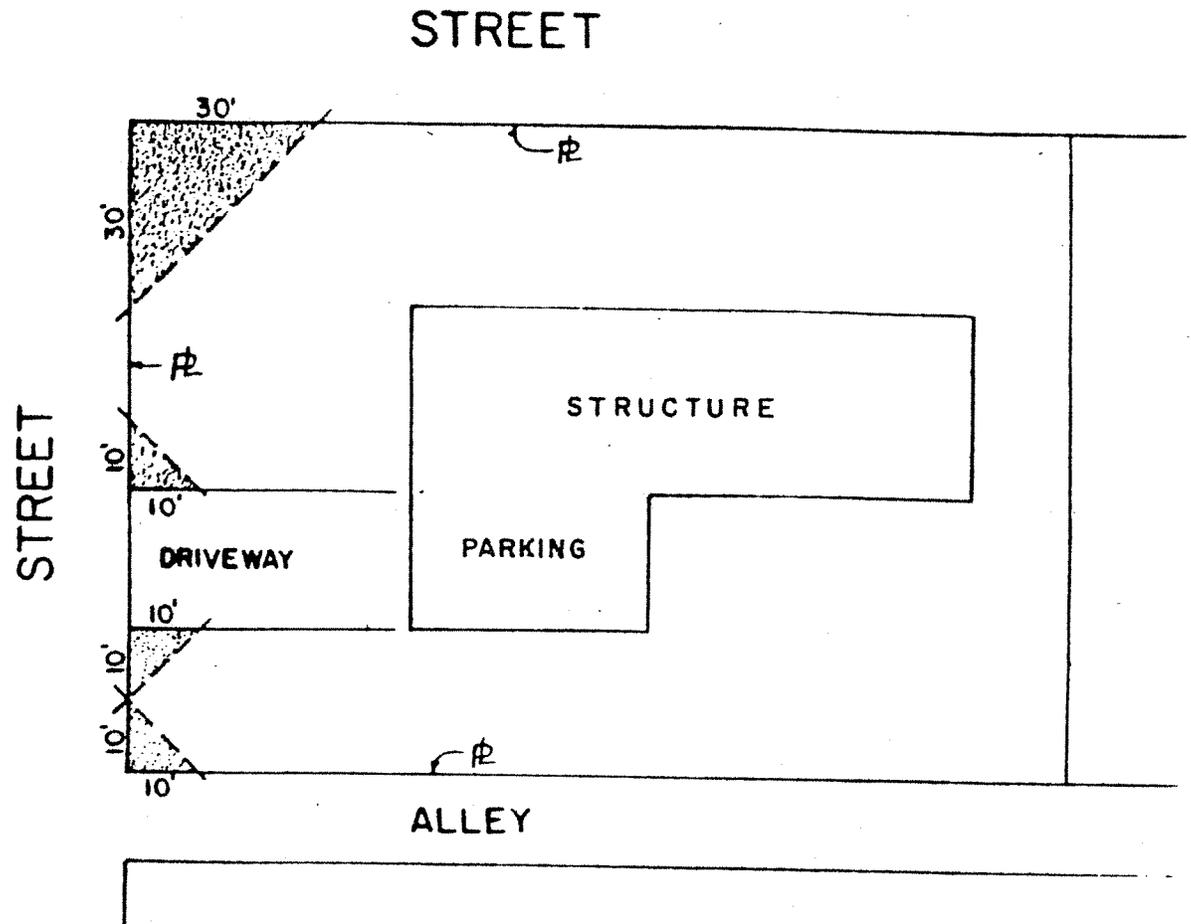
Staff cannot conclude that the Panoche Energy Center (PEC) is consistent with the Fresno County General Plan Agriculture and Land Use Element because power plants are not expressly listed as a permitted or conditional use under that designation and Fresno County has not provided sufficient information that would demonstrate how the PEC is substantially similar in character and intensity to such uses listed in Table LU-3. Staff also cannot conclude the PEC is consistent with the AE-20 zoning designation because power plants are not expressly listed as a permitted or conditional use in that zone and Fresno County has not provided complete information in its Site Plan Review (SPR) analysis to determine whether the project would be consistent with the intent and purpose of the AE-20 zone.

Staff used the California Agricultural Land Evaluation and Site Assessment (LESA) model to assess the loss of 22.2 acres of prime agricultural land (12.8-acre project site, 8 acres laydown area (temporary), and 2.2-acre PG&E substation expansion) and concluded the PEC's impact to agriculture to be significant. To mitigate for the loss of prime farmland, condition of certification **LAND-1** requires the applicant to pay a fee to an agricultural land trust to purchase 15 acres of prime farmland. With staff's recommended conditions of certification, the potential significant adverse environmental impacts of the PEC will be mitigated to a level below significance pursuant to the California Environmental Quality Act (CEQA).

## INTRODUCTION

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The land use analysis of the PEC Application for Certification (06-AFC-5) focuses on the project's consistency with land use plans, ordinances, and policies, and the project's compatibility with existing and planned land uses. In this case the land use analysis also focuses on the project's consistency with the Williamson Act. In general, a power plant and its related facilities have the potential to create land use impacts if they create unmitigated noise, dust, public health hazard or nuisance, traffic, or visual impacts. These individual resource areas are discussed in separate sections of this document. A power plant would also create a significant impact if it converts prime or unique farmland or farmland of statewide importance to non-agricultural uses.



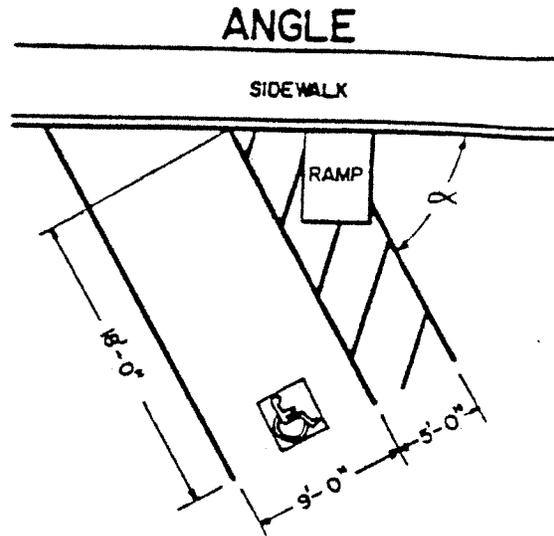
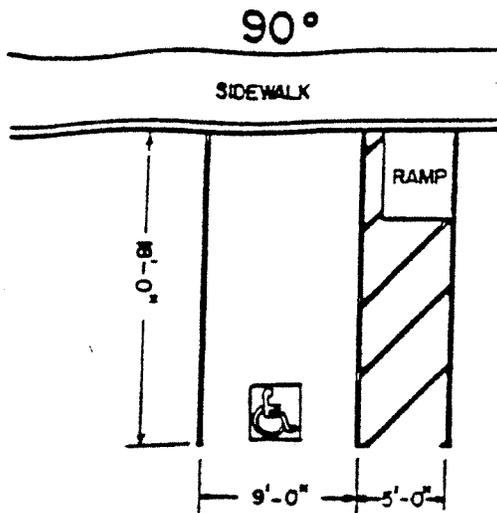
TYPICAL CORNER CUT-OFF  
(INDICATED IN GREY)

REQUIREMENTS OF THE CORNER CUT-OFF AREA

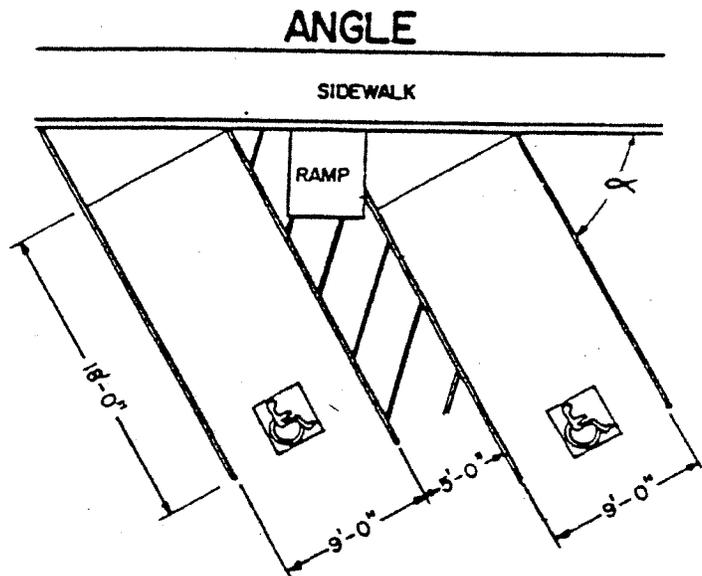
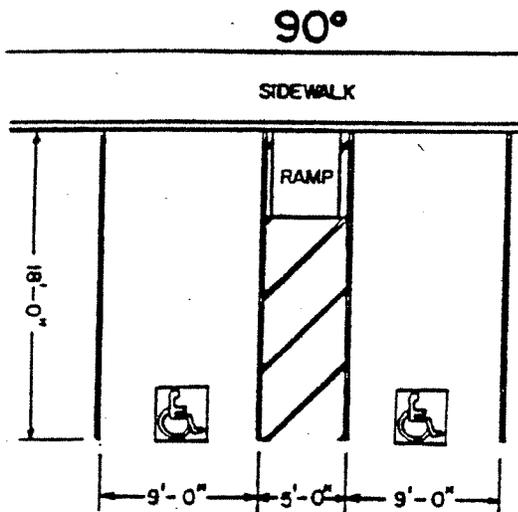
1. The branches of trees located within the corner cut-off area must be trimmed and maintained at a height of not less than seven (7) feet.
2. Bushes and shrubs must be trimmed and maintained at a height not to exceed three (3) feet. Fences, hedges, and walls shall not exceed three (3) feet in height.

# HANDICAPPED PARKING STALLS

## SINGLE STALL



## DOUBLE STALLS



### NOTES:

1. Dimensions shown are the allowed minimums.
2. Angle  $\alpha$  is a variable, allowed angles are: 30°, 40°, 45°, 50°, 60°, & 75°.
3. 2½' wide stripes in the loading zone shall be 3' on center.
4. The location of the ramp may vary and must comply with Fresno County Standards.
5. Sidewalks and ramp shall have a minimum width of 48".
6. The handicapped logo shall be a white symbol on a blue background.
7. A sign of not less than 70 square inches in area shall be placed on center of the interior end of the parking space at a minimum height of 80 inches from the bottom of the sign to the surface of the parking space.
8. Where applicable, the curb or the bumper stop shall be painted the same color blue as the handicapped logo.

**CALIFORNIA FIRE CODE, 902.2.2      **Obstruction & control of fire apparatus access****

The required width of a fire apparatus access shall not be obstructed in any manner, including parking of vehicles. Minimum required widths and clearances established under section 902.2.2.1 shall be maintained at all times.

**CALIFORNIA FIRE CODE, 902.2.2.2      **Surface****

Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

**CALIFORNIA FIRE CODE, 901.4.4      **Premises identification****

Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.

**CALIFORNIA FIRE CODE, 902.4      **Key Boxes****

When access to or within a structure or area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the chief is authorized to require a key box to be installed in an accessible location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the chief.

**CALIFORNIA FIRE CODE, 1001.7.2      **Clear space around hydrants****

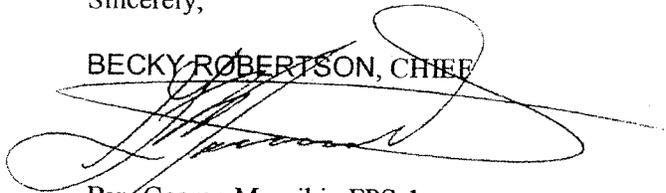
A 3-foot clear space shall be maintained around the circumference of the fire hydrants except as otherwise required or approved.

**Submit plans for all buildings that will be Sprinkled.  
Submit plans for all buildings that will be Fire Alarmed.**

Please contact me at (559) 485-7500 Ext. 113, if you have any questions.

Sincerely,

BECKY ROBERTSON, CHIEF



By: George Mavrikis-FPS-1  
Fire Protection Planning

# FRESNO COUNTY

## FIRE PROTECTION DISTRICT



March 6, 2007

Richard Perkins, Planner  
County of Fresno  
Fresno County Public Works & Development Services  
2220 Tulare Street, Six Floor  
Fresno, CA 93721

Transmitted by Email to: [rperkins@co.fresno.ca.us](mailto:rperkins@co.fresno.ca.us)

RE: **SPR# 7586**  
Panoche Energy Center, LLC  
43649 Panoche Road  
Firebaugh, Ca.

Dear Richard Perkins, Planner:

The Fresno County Fire Protection District comments in regards to the above project requires compliance of the 2001 California Fire Code and the following Articles & Sections:

**CALIFORNIA FIRE CODE, 903.2**

**Required water supply for fire protection**

An approved water supply capable of supplying the required fire flow for fire protection shall be provided to all premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction.

**Note:** When any portion of the facility or building protected is in excess of 150 feet (45 720 mm) from a water supply on a public street, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains capable of supplying the required fire flow shall be provided when required by the chief. See Section 903.4.

**Submit water plans to the Fire Prevention Bureau for approval**

**CALIFORNIA FIRE CODE, 1002.1**

**Portable fire extinguishers**

Portable fire extinguishers shall be in accordance with UFC Standard 10-1. UFC Standard 10-1, 1-6.8 Extinguishers installed under conditions where they are subject to physical damage shall be protected from impact.

**CALIFORNIA FIRE CODE, 902.2.2.1**

**Fire Department Access - Dimensions**

Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches.

**PANOCHÉ ENERGY CENTER  
APPLICATION FOR CERTIFICATION  
RESPONSE TO CEC DATA ADEQUACY REQUESTS  
06-AFC-5**

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**LEGAL DESCRIPTION  
PREMISES BOUNDARY EASEMENT  
"PROPOSED PANOCHÉ ENERGY CENTER"  
PORTION OF  
ASSESSOR'S PARCEL 027-060-78S  
VICINITY OF FIREBAUGH,  
FRESNO COUNTY, CALIFORNIA**

October 9, 2006

Being a portion of real property in the Southwest Quarter of Section 5 Township 15 South, Range 13 East, Mount Diablo Base and Meridian, according to the official plat thereof lying Southerly of Panoche Road, being a portion of that certain real property described in a document dated June 13, 1978 to Robert Hansen, Trustee under the Sharla M. Baker Trust as Instrument No. 89-106620 Official Records, County of Fresno, vicinity of Firebaugh, California more particularly described as follows:

**COMMENCING** at the Southwest Corner of said Section 5 at a found 2" iron pipe thence along the West line of said Section 5 being the Southwest Quarter thereof North 01° 34' 29" East 902.88 feet; thence leaving the West line of said Section 5 through the interior of said Southwest Quarter of Section 5 the following seven (7) courses: South 89° 10' 03" East 39.95 feet to the **POINT OF BEGINNING** of the herein described real property; North 00° 49' 57" East 522.11 feet; South 89° 10' 03" East 1001.11 feet; South 00° 49' 57" West 690.97 feet; North 89° 10' 03" West 212.94 feet; North 00° 49' 57" East 168.86 feet; North 89° 10' 03" West 788.17 feet to the **POINT OF BEGINNING**.

Containing 558,646 square feet of land (12.82 acres), more or less.

This description is based on record information. The Basis of Bearings are NAD 1983, Epoch 2004.50, California Coordinate System, Zone 4 and are based upon a GPS Survey constrained to NGS monuments: AC6117 (HPGN D CA 06 NC) survey disk in bridge abutment and GU4142 (Z 1444) stainless steel rod.

Site Plan Review No. 7584  
Page 7

2220 Tulare Street, Sixth Floor  
Fresno, CA 93721

If you have any questions, please contact me at (559) 262-4215.

Very truly yours,



Robin Tani, Senior Planner  
Development Services Division

G:\4360Devs&Pln\BLD\_SFTY\Zoning\S.P.R\SPR Approvals\7586rev.doc

c: Fresno County Department of Community Health, Environmental Health System  
Fresno County Fire Protection District; 210 S. Academy Ave.; Sanger, CA 93657  
Gary R. Chandler; 2542 Singletree Lane; S. Jordan, UT 84095

Enclosure

- E. If the use of this property should ever change, the owner or operator is obligated to verify that the new use would be allowed by all applicable building codes and ordinances of Fresno County. Contact the Fresno County Department of Public Works and Planning, Permits Counter at (559) 262-4302 for information on applicable codes and ordinances.
- F. All hazardous waste shall be handled in accordance with the requirements set forth in the California Health and Safety Code, Chapter 6.5. This chapter discusses proper labeling, storage, and handling of hazardous wastes.
- G. Should a water well be drilled to serve the administration and control buildings, a Permit to Construct a Water Well shall be obtained from the Fresno County Department of Community Health, Environmental Health System. Contact Ed Yamamoto at (559) 445-3357 for information.
- H. The project description indicates the use of aqueous ammonia. Based upon the information contained in the operational statement, this facility will have to comply with the California Accidental Release Prevention (Cal-ARP) Program (Title 19, California Code of Regulations Section 2745.1(e)). A Risk Management Plan shall be submitted to the local Certified Unified Program Agency (CUPA) prior to the date in which the regulated substance (ammonia) is first present in the process above the listed threshold quantity of 500 pounds. Contact the CUPA at (559) 445-3271 for information.
- I. Fresno County Ordinances require that sanitary facilities shall be installed in accordance with requirements of the Fresno County Department of Public Works and Planning.
- J. Required site improvements may be bonded in accordance with the provisions of Section 874-C-2 of the Fresno County Zoning Ordinance.
- K. This Site Plan Review approval shall expire in two years from the date of approval unless substantial development has commenced.

This approval is final, unless appealed to the Fresno County Planning Commission. In this event, you must submit a fee of \$482.50 and file a written appeal setting forth your reasons for such appeal to the Commission. Such appeal shall be filed with the Director of the Department of Public Works and Planning within 15 days after the mailing of this decision and shall be addressed to:

Department of Public Works and Planning  
Development Services Division  
Attention: Robin Tani

- I. Waste water shall be disposed of in accordance with California Regional Water Quality Control Board requirements. Documentation shall be provided to this Department showing that this project is in compliance with Board requirements.

V. NOTES

- A. Specific industrial activities, including manufacturing, transportation, waste handling facilities and others which might generate contaminated runoff, must secure Storm Water Discharge Permits from the State Water Resources Control Board in compliance with the NPDES Regulations promulgated by the U.S.E.P.A. (CFR Parts 122-124, Nov. 1990). If the applicant determines that a NPDES Permit is required for operations of the proposed facility, a State General Permit Notice of Intent must be filed with the State Water Resources Control Board. Copies of the State General Permit and Notice of Intent are available at the Fresno Metropolitan Flood Control District. For more information on procedures, contact the California State Water Resources Control Board, Division of Water Quality, Attention: Storm Water Permit Unit, P.O. Box 1977, Sacramento, CA 95812-1977 or call (916) 341-5536 for an individual to address your concerns.
- B. Construction activities, including grading, clearing, grubbing, filling, excavation, development or redevelopment of land that would result in a disturbance of one (1) acre or more of the total land area, must secure a Storm Water Discharge Permit in compliance with the U.S.E.P.A.'s NPDES Regulations (CFR Parts 122-124, Nov. 1990). The Permit must be secured by filing a Notice of Intent for the State General Permit for Construction Activity with the State Water Resources Control Board. Copies of the State General Permit and Notice of Intent are available at the Fresno Metropolitan Flood Control District. For more information or procedures, contact the California State Water Resources Control Board, Division of Water Quality, Attention: Storm Water Permit Unit, P.O. Box 1977, Sacramento, CA 95812-1977 or call (916) 341-5536 for an individual to address your concerns.
- C. The proposed development shall implement all applicable Best Management Practices (BMPs) presented in the Construction Site and Post-Construction Storm Water Quality Management Guidelines, available at the Fresno Metropolitan Flood Control District office, to reduce the release of pollutants in storm water runoff to the maximum extent practicable. Contact the District at (559) 456-3292 for information.
- D. All hazardous waste shall be handled in accordance with the requirements set forth in the California Health and Safety Code, Chapter 6.5. This chapter discusses proper labeling

- C. Active storage areas, truck parking, and circulation areas shall be treated with a dust palliative and repeated as necessary to prevent the creation of dust by vehicles.
- D. All outdoor lighting shall be hooded and directed so as not to shine toward public roads or the surrounding properties.
- E. Any access gate shall be setback a minimum of 20 feet (or the length of the longest vehicle to initially enter the site) from the edge of the ultimate road right-of-way.

IV. MISCELLANEOUS

- A. Permits for structural, electrical, and plumbing work shall be obtained from the Department of Public Works and Planning, Permits Counter, prior to any construction.
- B. All proposed signs shall be submitted to the Department of Public Works and Planning, Permits Counter to verify compliance with the Zoning Ordinance.
- C. Vehicular access to this development shall be limited to the driveway approach shown on the approved plan.
- D. Fire protection improvements shall be in place and inspected by the Fresno County Fire Protection District prior to occupancy. Contact the District at (559) 485-7500 to arrange for an inspection. Allow 14 to 21 days for the District to complete the inspection.
- E. A Hazardous Materials Business Plan or Business Plan Exemption shall be completed and submitted to the Fresno County Department of Community Health, Environmental Health System. Contact the Certified Unified Program Agency (CUPA) at (559) 445-3271 for information. A letter shall be submitted from CUPA stating that the Business Plan or Exemption has been submitted.
- F. The Civil Engineer who prepares the on-site improvement plans shall inspect construction of the facilities and shall certify to the Department of Public Works and Planning that the work conforms with approved plans and specifications.
- G. A 45 degree (45°) corner cut-off of no obstruction to visibility shall be maintained. (See typical corner cut-off drawing.)
- H. A copy of the Permit to Operate issued by the San Joaquin Valley Unified Air Pollution Control District shall be submitted to this Department.

certification from the school district that the fee has been paid. An official certification form will be provided by the County when application is made for a building permit.

- G. A permit is required to be obtained from the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). Contact the District at (559) 230-6000 for permitting requirements. A copy of the Authority to Construct shall be submitted to this Department.
- H. All Williamson Act requirements shall be satisfied.

Prior to the Certificate of Occupancy being granted all items listed below shall be completed/satisfied.

## II. OFF-SITE IMPROVEMENTS

- A. The necessary permits for off-site improvements shall be obtained from the Fresno County Department of Public Works and Planning, Road Maintenance and Operations Division, and shall be installed in accordance with Fresno County Improvement Standards.
- B. The developer is responsible for relocating those utilities within the road right-of-way(s) to the correct alignment and grade affected by the developer's improvements.
- C. An asphalt concrete driveway approach 24 to 35 feet in width shall be constructed along Panoche Road. The driveway shall intersect the Road at a 90 degree angle.

## III. ON-SITE IMPROVEMENTS

- A. The parking, circulation, and loading areas shall be graded and surfaced as noted on the approved plan. One parking space shall be provided for the physically disabled in accordance with the attached sheet. The space shall be located on the shortest possible route to an accessible entrance and shall be concrete or asphalt concrete paved. The required parking for the physically disabled shall be shown on the Grading and Drainage Plan.
- B. The driveway shall be graded and asphalt concrete paved a minimum width of 24 feet for the first 100 feet South of the ultimate road right-of-way. The driveway shall intersect the Road at a 90 degree angle.

Prior to the issuance of a Building Permit Required Development Clearances shall be completed/satisfied.

I. REQUIRED DEVELOPMENT CLEARANCES

- A. All driveways and parking areas to be used by motor vehicles shall be designed by an architect or civil engineer in accordance with Fresno County Standards. Engineered plans for the construction, including a complete listing of materials, costs, and quantities in place, shall be submitted to this Department for approval. A Plan Check Fee, based upon construction costs, will be collected with the submittal of the Grading and Drainage Plan. The engineer who prepares the plan shall certify to this Department that the facilities have been constructed in accordance with approved plans and specifications.
- B. Storm water due to this development shall be retained on the property being developed in accordance with Fresno County Improvement Standards.
- C. When provisions are made to retain all runoff from this development within a drainage pond(s) or other facility acceptable to the Director of the Department of Public Works and Planning, the storage capacity shall be based on the formula:  $\text{Storage} = (.50) \text{ CA}$ .
- D. A Grading and Drainage Plan shall be prepared by a Registered Civil Engineer and submitted to the Department of Public Works and Planning, in accordance with Section 6731 of the California Business and Professions Code. The Plan shall have an Engineer's Certificate indicating that the grading and drainage will have no adverse effect on the adjoining properties. Contact the Drainage and Grading Engineer for Drainage Plan requirements at (559) 262-4167.
- E. The design of the on-site fire protection water system, including, but not limited to the location and number of fire hydrants, and the size of the water mains, shall be submitted to the Fresno County Fire Protection District for review (Their comments have been attached.). A plan must be submitted to this Department from the Fire District with their recommendations/approval. Contact Fire Protection Planning at (559) 485-7500 for an appointment.
- F. The Mendota Unified School District, in which you are proposing construction, has adopted a resolution requiring the payment of a Development Impact Fee. The County, in accordance with State law, which authorizes the fee, will not issue a building permit without



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
ALAN WEAVER, DIRECTOR

March 26, 2007

W. David Jenkins  
1293 E. Jessup Way  
Mooreville, IN 46158

To Whom It May Concern:

SUBJECT: SITE PLAN REVIEW NO. 7586

Site Address: 43883 W. Panoche Road  
APN: 027-060-78S  
Zoning District: AE-20 (Exclusive Agricultural)  
Use Approved: Allow a 400MW Peaking Power Plant  
Legal Description of Site: See attached description

The Department of Public Works and Planning has reviewed your application and determined that the required findings can be made and hereby approves Site Plan Review No. 7586 subject to the following conditions.

## CONDITIONS OF APPROVAL

The required improvements are listed below and on the approved plans. An inspection is required prior to the issuance of a Certificate of Occupancy to assure compliance with these conditions and the approved Site Plan. Please call (559) 262-4029, Fresno County Department of Public Works and Planning, Building and Safety Section, to arrange for this inspection when required improvements are completed.



## **18.6 Security**

The plant site will be enclosed by a security fence. Access gates will be provided, as required. In addition to the perimeter security fence, the substation and transformer area will be fenced and provided with access gates. Security will be maintained on a 24-hour basis with either surveillance devices or personnel.

## **18.7 Public Health and Safety**

The programs implemented to protect worker health and safety will also benefit public health and safety. Facility design will include controls and monitoring systems to minimize the potential for upset conditions that could result in public exposure to acutely hazardous materials. Potential public health impacts associated with operation of the project will be mitigated by development and implementation of an Emergency Response Plan (ERP), a HAZCOM Program, a Spill Prevention, Control, and Countermeasures (SPCC) Plan, safety programs, and employee training.

PEC will coordinate with local emergency responders, provide them with copies of the plant site ERP, conduct plant site tours to point out the location of hazardous materials and safety equipment, and encourage these providers to participate in annual emergency response drills.

PEC will create and employ an Emergency Response Plan (ERP). The ERP will address potential emergencies, including chemical releases, fires, and injuries, and will describe emergency response equipment and its location, evacuation routes, procedures for reporting to local emergency response agencies, responsibilities for emergency response, and other actions to be taken in the event of an emergency.

Employee response to an emergency will be limited to an immediate response to minimize the risk of escalation of the accident or injury. Employees will be trained to respond to fires, spills, earthquakes, and injuries. A first-aid facility with adequate first-aid supplies and personnel qualified in first-aid treatment will be onsite.

### **List of Drawings and Attachments**

Site Plan (eleven copies)

Attachment 1 – Artist Rendering (one copy)

Attachment 2 – General Vicinity (one copy)

Attachment 3 – General Arrangement Elevations (eleven copies)

### 18.3 Sanitary System

The sanitary system will consist of a septic system and leach field designed to handle the sanitary flow from the administration and control building and other restrooms, if any, located on the site. The septic tank and leach field will be located directly south of the administration and control building as shown on the *Site Plan*.

### 18.4 Earthwork

Excavation work will consist of the removal, storage, and/or disposal of earth, sand, gravel, vegetation, organic matter, loose rock, boulders, and debris to the lines and grades necessary for construction. Materials suitable for backfill will be stockpiled at designated locations using proper erosion protection methods. Excess material will be removed from the site and disposed of at an acceptable location. If contaminated material is encountered during excavation, its disposal will comply with applicable LORS.

Graded areas will be smooth, compacted, free from irregular surface changes, and sloped to drain. Cut and fill slopes for permanent embankments will be designed to withstand horizontal ground accelerations for Seismic Zone 4. For slopes requiring soil reinforcement to resist seismic loading, geogrid reinforcement will be used for fills and soil nailing for cuts. Slopes for embankments will be no steeper than 2:1 (horizontal:vertical). Areas to be backfilled will be prepared by removing unsuitable material and rocks. The bottom of an excavation will be examined for loose or soft areas. Such areas will be excavated fully and backfilled with compacted fill.

Backfilling will be done in layers of uniform, specified thickness. Soil in each layer will be properly moistened to facilitate compaction to achieve the specified density. To verify compaction, representative field density and moisture-content tests will be performed during compaction. Structural fill supporting foundations, roads, and parking areas will be compacted to at least 95 percent of the maximum dry density as determined by American Society for Testing Materials (ASTM) D-1557 as described in Appendix L, Geotechnical Report. Embankments, dikes, bedding for buried piping, and backfill surrounding structures will be compacted to a minimum of 90 percent of the maximum dry density. Backfill placed in remote and/or unsurfaced areas will be compacted to at least 85 percent of the maximum dry density.

Where fills are to be placed on subgrades sloped at 6:1 (horizontal:vertical) or greater, keys into the existing subgrade may be provided to help withstand horizontal seismic ground accelerations.

The subgrades (original ground), subbases, and base courses of roads will be prepared and compacted in accordance with California Division of Transportation (Caltrans) standards. Testing will be in accordance with ASTM and Caltrans standards.

## 18.2 Fire Protection Systems

**Firewater System.** The fire protection system will mitigate personnel injury, loss of life, property loss, and plant downtime due to fire. The fire protection system will consist of a 500,000-gallon raw water/firewater storage tank, a packaged fire pump system, a dedicated underground firewater distribution system with fire hydrants, sprinkler systems, and deluge systems as required by the National Fire Protection Association (NFPA) code. In addition, the combustion turbines and electrical buildings will be protected by a carbon dioxide fire protection system.

There will be a dedicated volume in the 500,000-gallon storage tank that will provide 2 hours of protection from an onsite worst-case single fire. Water from the raw water storage tank will be delivered to the underground firewater loop by means of the packaged fire pump system. This system will consist of a diesel-driven pump, a motor-driven pump, and a jockey pump. The main firewater pump will be the electric motor-driven pump. The diesel-driven pump will be the emergency firewater pump if the motor-driven pump fails due to electrical power failure or mechanical problems. The jockey pump maintains the pressure in the firewater loop.

The firewater distribution system will be designed in conformance with NFPA codes. The system will have sectionalizing valves so that a failure in any part of the system can be isolated while allowing the remainder of the system to function properly. Fire hydrants and fixed suppression systems will be supplied from the firewater loop. Fire hydrants will be spaced at approximately 300-foot intervals around the facility in accordance with NFPA 850 and local fire codes.

**Fixed Fire Protection Systems.** The fire protection water supply is shown on Figure 3.4-10. Fixed fire protection systems will be provided for the station oil-filled generator step-up transformers and the turbine lubrication oil system. In addition, buildings will have sprinkler systems as required by NFPA and local fire codes. Sprinkler and fixed-spray systems will be designed and installed in accordance with NFPA 13 and NFPA 15.

**Fire Alarm and Detection.** Fire alarms will be installed in buildings in accordance with NFPA 72 and as required by local fire codes. The alarm system will include alarm annunciation, supervisory, and trouble signals. Alarms will require urgent action by the plant operators. Supervisory signals indicate abnormal conditions that require investigation. Trouble signals indicate adverse conditions such as ground fault or power supply problem that should be rectified by qualified personnel.

**Portable Extinguishers.** Hand-held CO<sub>2</sub> and dry chemical fire extinguishers will be located throughout the plant in accordance to NFPA 10.

**Miscellaneous Fire Safety Items.** All material used in construction of the plant and its auxiliary systems will be free of asbestos and will meet the fire and smoke rating requirements of NFPA 255.

**DOCKET**  
**06-AFC-5**  
DATE **MAY 09 2007**  
RECD. **MAY 09 2007**

3



1 AFTER RECORDING,  
2 RETURN TO STOP #214

FRESNO County Recorder  
Robert C. Werner  
**DOC- 2007-0090290**  
Monday, MAY 07, 2007 11:37:59  
Tel Pd \$0.00 Nbr-0002490003  
APR/R1/1-3

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BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF FRESNO  
STATE OF CALIFORNIA  
CERTIFICATE OF TENTATIVE CANCELLATION  
(less than the total of the land subject to contract)

NOTICE IS HEREBY GIVEN:

By resolution dated April 24, 2007, the Board of Supervisors of the County of Fresno granted tentative approval of the petition by PAO Investments, LLC for cancellation of a portion of Agricultural Land Conservation Contract (ALCC) No. 367, which applies to the real property situated in the County of Fresno, State of California, and is more particularly described on the legal description attached as Exhibit "A" and made a part hereof describing the 12.82-acre parcel subject to cancellation.

The above-referenced property is less than the total of the real property subject to ALCC No. 367.

A Certificate of Cancellation of the Contract shall be issued and recorded at such time as the following contingencies and conditions are satisfied:

1. Payment in full of the cancellation fee, which is in the amount of \$6,375.00.
2. Unless the cancellation fee is paid or a Certificate of Cancellation of Contract is issued within one year from the date of the recording of this certificate, the cancellation fee shall be recomputed as of the date of

**EXHIBIT 'A'**  
Legal Description  
Area Covered by Petition for Partial  
Cancellation of Williamson Act Contract

Being a portion of real property in the Southwest Quarter of Section 5 Township 15 South, Range 13 East, Mount Diablo Base and Meridian, according to the official plat thereof lying Southerly of Panoche Road, being a portion of that certain real property described in a document dated June 13, 1978 to Robert Hansen, Trustee under the Sharla M. Baker Trust as Instrument No. 89-106820 Official Records, County of Fresno, vicinity of Firebaugh, California more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 5 at a found 2" iron pipe thence along the West line of said Section 5 being the Southwest Quarter thereof North  $01^{\circ}34'29''$  East 802.88 feet; thence leaving the West line of said Section 5 through the interior of said Southwest Quarter of Section 5 the following seven (7) courses: South  $89^{\circ}10'03''$  East 39.95 feet to the POINT OF BEGINNING of the herein described real property; North  $00^{\circ}49'57''$  East 522.11 feet; South  $89^{\circ}10'03''$  East 1,001.11 feet; South  $00^{\circ}49'57''$  West 690.97 feet; North  $89^{\circ}10'03''$  West 212.94 feet; North  $00^{\circ}49'57''$  East 168.86 feet; North  $89^{\circ}10'03''$  West 788.17 feet to the POINT OF BEGINNING.

Containing 558,646 square feet of land (12.82 acres) more or less.

This description is based on record information. The Basis of Bearings are NAD 1983, Epoch 2004.50, California Coordinate System, Zone 4 and are based upon a GPS Survey constrained to NGS monuments; AC6117 (HPGN D CA 06 NC) survey disk in bridge abutment and GU4142 (Z 1444) stainless steel rod.



1           3.     That the cancellation is for an alternative use that is consistent with the  
2 provisions of the County General Plan.

3           4.     That the cancellation will not result in discontinuous patterns of urban  
4 development.

5           5.     That there is no proximate non-contracted land which is both available  
6 and suitable for the use to which it is proposed the contracted land be put or that  
7 development of contracted land would provide more contiguous patterns of urban  
8 development than development of proximate non-contracted land; and

9           WHEREAS, in accordance with Section 51284.1(c) of the Government Code the  
10 Board has considered the comments of the Department of Conservation ("DOC"); and

11           WHEREAS, the Board has determined the cancellation to be consistent with the  
12 purposes of the Williamson Act, subject to the following conditions:

13           1.     Payment in full of the cancellation fee, which is in the amount of  
14 \$6,375.00.

15           2.     Unless the cancellation fee is paid or a Certificate of Cancellation of  
16 Contract is issued within one year from the date of the recording of this certificate, the  
17 cancellation fee shall be recomputed as of the date of notice by the landowner to the  
18 Board of Supervisors as required by Government Code Section 51283.4.

19           3.     The landowner shall obtain all permits necessary to commence the  
20 project.

21           NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors hereby  
22 finds this cancellation of said contract as to 12.82 acres to be consistent with the  
23 purposes of the Williamson Act; and

24           BE IT FURTHER RESOLVED that the partial cancellation of this contract be and  
25 it hereby is approved for the 12.82-acre portion of ALCC No. 367 described on the  
26 attached legal description (Exhibit "A"), subject to the following conditions:

27           1.     Payment in full of the cancellation fee, which is in the amount of  
28 \$6,375.00.

1 AFTER RECORDING,  
2 RETURN TO STOP #214

4

FRESNO County Recorder  
Robert C. Werner  
DOC- 2007-0090289  
Monday, MAY 07, 2007 11:37:59  
Tel Pd \$0.00 Nbr-002490882  
APR/R1/1-4

**DOCKET**  
**06-AFC-5**  
DATE MAY 09 2007  
REC'D. MAY 09 2007

6 BEFORE THE BOARD OF SUPERVISORS  
7 OF THE COUNTY OF FRESNO  
8 STATE OF CALIFORNIA

9  
10 IN THE MATTER OF  
11 AGRICULTURAL LAND  
CONSERVATION CONTRACT

RESOLUTION APPROVING PARTIAL  
CANCELLATION OF AGRICULTURAL  
LAND CONSERVATION CONTRACT NO.  
367 (RLCC No. 838)

12 WHEREAS, Agricultural Land Conservation Contract (ALCC) No. 367 was  
13 entered into between the County of Fresno and Russell Giffen and Ruth P. Giffen, and  
14 succeeded to by PAO Investments, LLC, hereafter referred to as "Owners", and  
15 recorded February 27, 1969, as Instrument No. 13855, Book 5665, Pages 182 to 185,  
16 of the Official Records of Fresno County, California, and

17 WHEREAS, in accordance with Section 51283(b) of the Government Code, the  
18 County Assessor certified the cancellation valuation to this Board for determination of  
19 the cancellation fee; and

20 WHEREAS, this Board has determined the cancellation fee to be in the amount  
21 of \$6,375.00; and

22 WHEREAS, the Agricultural Land Conservation Committee has recommended  
23 approval of the proposed cancellation because of the ability to make all of the required  
24 findings in accordance with Section 51282(b) of the Government Code:

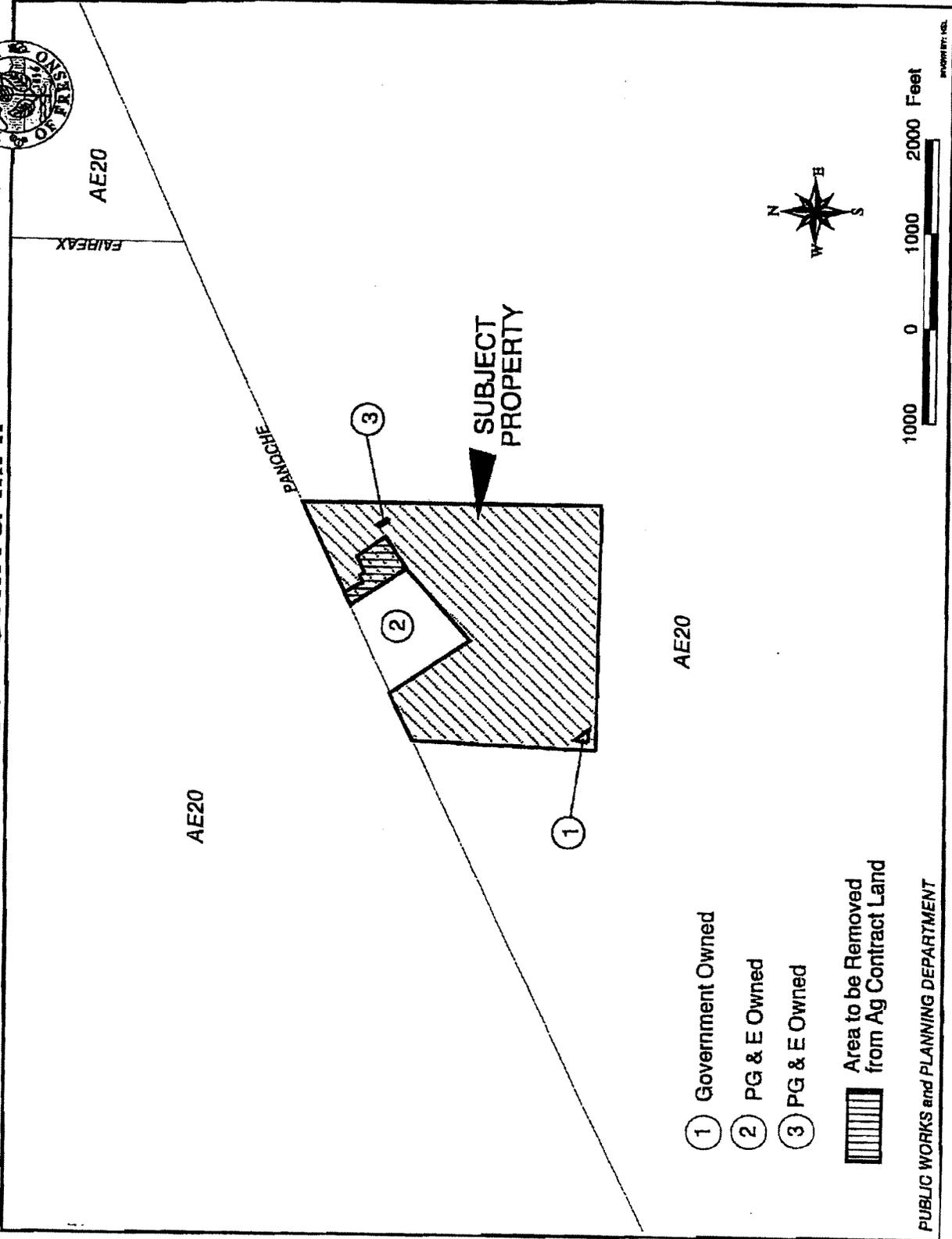
25 1. That the cancellation is for land on which notice of non-renewal has been  
26 served pursuant to Section 51245.

27 2. That the cancellation is not likely to result in the removal of adjacent  
28 lands from agricultural use.

**LAND USE APPENDIX 2**

RLCC 843  
STR: 06 - 15/13

# EXISTING ZONING MAP



AE20

AE20

AE20

FAIRFAX

RANCH

SUBJECT  
PROPERTY

- ① Government Owned
- ② PG & E Owned
- ③ PG & E Owned

 Area to be Removed from Ag Contract Land



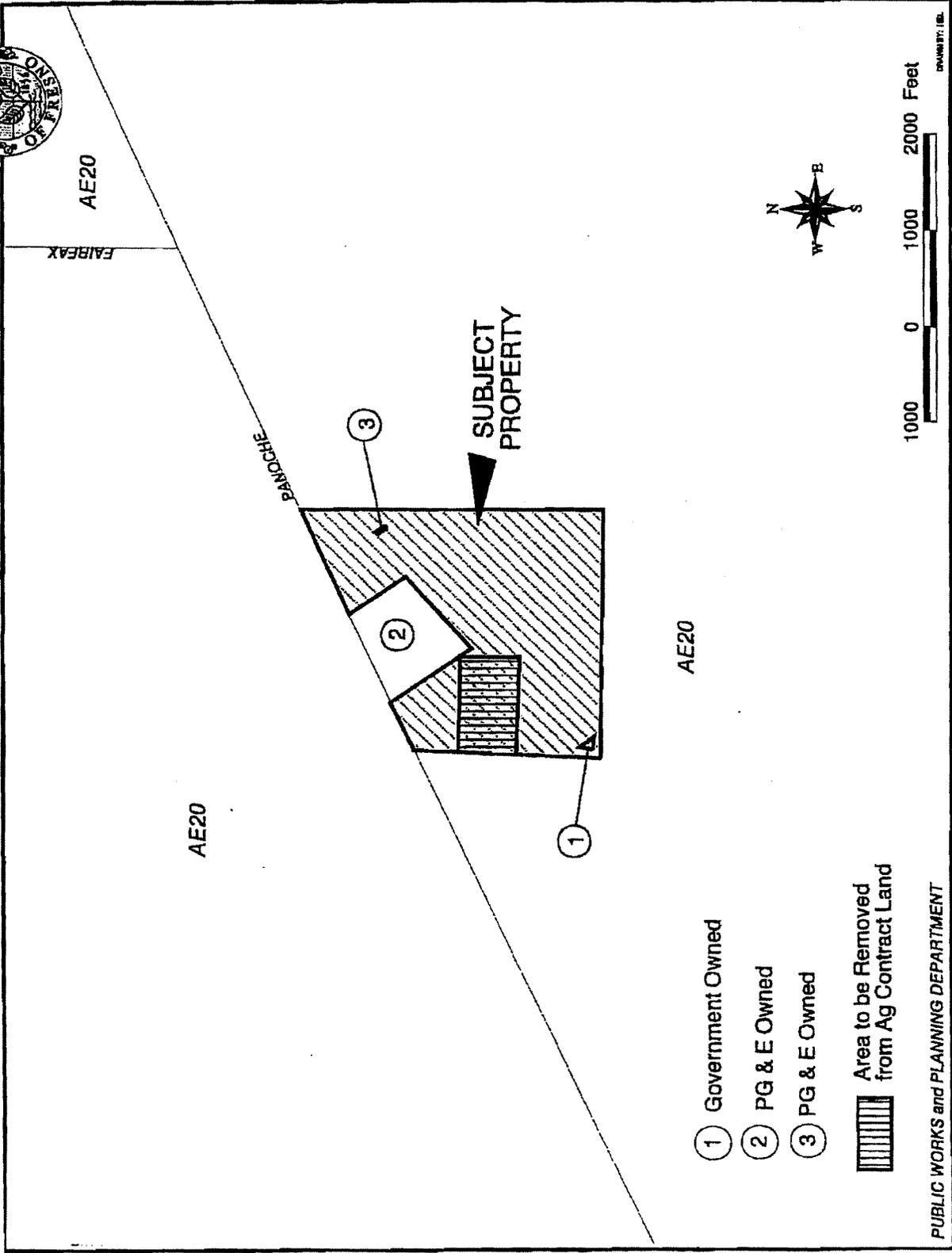
1000 0 1000 2000 Feet

PROJECT: 142

PUBLIC WORKS and PLANNING DEPARTMENT

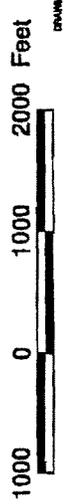
RLCC 838  
STR: 06 - 15/13

# EXISTING ZONING MAP



- ① Government Owned
- ② PG & E Owned
- ③ PG & E Owned

 Area to be Removed from Ag Contract Land



PLANNING DEPARTMENT



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
ALAN WEAVER, DIRECTOR

## NOTICE OF PUBLIC HEARING FRESNO COUNTY BOARD OF SUPERVISORS

A public hearing will be held on Revision to Land Conservation Contract (RLCC) No. 838 filed by PAO Investments, LLC proposing to:

Allow partial cancellation of ALCC No. 838 to remove 12.82 acres of prime agricultural land from Williamson Act contract restrictions for development of a 200-megawatt thermal power plant. The subject property is located on the south side of Panoche Road between Interstate 5 and Fairfax Avenue approximately 12.6 miles southwest of the city limits of Mendota. (45499 Panoche Road) (SUP. DIST. 1) (APN: 027-060-78s).

The Board of Supervisors hearing will be held at 2:00 p.m. (or as soon thereafter as possible) on Tuesday, **April 24, 2007**, in Room 301, Hall of Records, Tulare and "M" Streets, Fresno.

Anyone may testify. For information, contact Jared Nimer, Department of Public Works and Planning, Development Services Division, 2220 Tulare Street, (Corner of Tulare & "M" Streets, Suite "B") Fresno, CA 93721, Phone: (559) 262-4846.

ALAN WEAVER, DIRECTOR  
Department of Public Works and Planning

### NOTES:

Please share this notice with your neighbors and with anyone you feel may be interested.

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 the notice or in written correspondence delivered to the Board of Supervisors at, or prior to, the public hearing.

## SEE MAP ON REVERSE SIDE

G:\4360Devs&P\in\PLANNING\AG\RLCC - Apps\Active Cancellation\RLCC 838 PAO Investments\mailing notice.doc

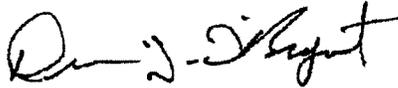
Mr. Jared Nimer, Planner II  
January 19, 2007  
Page 3 of 3

As a general rule, land can be withdrawn from Williamson Act contract through the nine-year nonrenewal process. The Supreme Court has opined that cancellation is reserved for extraordinary situations (Sierra Club v. City of Hayward (1981), 28 Cal.3d 840).

Lastly, legislation effective January 1, 2005, requires the county assessor to send notice to the Department and landowner of the current fair market value of the land and of the opportunity to request a formal review from the assessor prior to any action giving tentative approval to the cancellation of any contract. (SB 1820, Machado, Chapter 794, Statutes of 2004 (Section 51283(a)). To date, the Department has not received the required notice of the parcel's cancellation valuation.

Thank you for the opportunity to provide comments on the proposed cancellation. Please provide our office with a copy of the Notice of the Public Hearing on this matter ten (10) working days before the hearing and a copy of the published notice of the Board's decision within 30 days of the tentative cancellation pursuant to section 51284. If you have any questions concerning our comments, please contact Adele Lagomarsino, Program Analyst at (916) 445-9411.

Sincerely,



Dennis J. O'Bryant  
Program Manager

of nonrenewal has been served, 2) removal of adjacent land from agricultural use is unlikely, 3) the alternative use is consistent with the County's General Plan, 4) discontinuous patterns of urban development will not result, and 5) that there is no proximate noncontracted land which is available and suitable for the use proposed on the contracted land or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

Provided the information received is accurate and correct, the Department concurs the Board has a basis to find cancellation of the 12.82-acre portion of the contract consistent with the purposes of the Williamson Act.

The landowner served a notice of nonrenewal. The 128.49-acre portion of Contract No. 367 (APN 027-060-78s) is scheduled to expire on December 31, 2016. Development of the proposed power generation facility will not negatively affect adjacent agricultural lands or cause their removal from agricultural use.

The proposed alternative use appears consistent with the agricultural land use policies contained in the Fresno County General Plan. The proposed alternative use will not produce discontinuous patterns of urban development and due to the location of the existing PG&E substation, the Department would concur that there is not proximate noncontracted land that is suitable or available for the alternative use proposed.

#### Cancellation is in the Public Interest

For the cancellation to be in the public interest, the Council must make findings with respect to all of the following: (1) other public concerns substantially outweigh the objectives of the Williamson Act and (2) that there is no proximate noncontracted land which is available and suitable for the use proposed on the contracted land or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land. Our comments have already addressed the second finding required under public interest finding above.

In order to find that "other public concerns substantially outweigh the objectives of the Williamson Act," the Supreme Court has directed that the Board must consider the interest of the public as a whole in the value of the land for open space and agricultural use. Though the interests of the local and regional communities involved are also important, no decision regarding the public interest can be based exclusively on their parochialism. Moreover, the paramount 'interest' involved is the preservation of land in agricultural production. In providing for cancellation, the Legislature has recognized the relevance of other interests, such as housing, needed services, environmental protection through developed uses, economic growth and employment. However, it must be shown that open space objectives, explicitly and unequivocally protected by the act, are substantially outweighed by other public concerns before the cancellation can be deemed "in the public interest" (Sierra Club v City of Hayward (1981), 28 Cal. 3d. 840, 857).



## DEPARTMENT OF CONSERVATION

## DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814  
PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEBSITE [conservation.ca.gov](http://conservation.ca.gov)

January 19, 2007

RECEIVED  
JAN 25 2007

Mr. Jared Nimer, Planner II  
Fresno County Department of Public Works and Planning  
Development Services Division  
2220 Tulare Street, Sixth Floor  
Fresno, CA 93721

FRESNO COUNTY  
DEPT. OF  
PUBLIC WORKS & PLANNING

Subject: Partial Cancellation of Land Conservation (Williamson Act) Contract  
ALCC No. 367 (RLCC 838); APN 027-060-78s portion - PAO  
Investments

Dear Mr. Nimer:

Thank you for submitting notice to the Department of Conservation (Department) as required by Government Code section 51284.1 for the above referenced matter.

The petition proposes to cancel a 12.82-acre portion of the parcel's 128.49 prime agricultural acres subject to Contract No. 367 for development of a 200-megawatt thermal power plant. The parcel's remaining 115 acres are currently undergoing the nonrenewal process for contract termination.

The site is located south and adjacent to West Panoche Road, approximately ¼ of a mile west of the intersection of Fairfax Avenue and West Panoche Road in Fresno County.

#### Cancellation Findings

Government Code Section 51282 states that tentative approval for cancellation may be granted only if the local government makes one of the following findings: 1) cancellation is **consistent** with purposes of the Williamson Act or 2) cancellation is in the **public interest**. The Department has reviewed the petition and information provided and offers the following comments.

#### Cancellation is consistent with the purposes of the Williamson Act

For the cancellation to be consistent with purposes of the Williamson Act, the Fresno County Board of Supervisors must make all of the following five findings: 1) a notice

March 14, 2007  
ER 5785;  
Page 2 of 2

document prepared for the proposed thermal power plant site or facility, as required under Section 15271.

4. The division of land is proposed in accordance with the County's General Plan and Zoning Ordinance. The project will not result in any adverse impacts to the environment.

The proposed project meets the criteria for Section 15271 and is exempt from the provisions of CEQA.

If you have any questions, please call me at 262-4454.

C:\Documents and Settings\acosta-mena\Local Settings\Temporary Internet Files\OLKDF\ER 5785 (2).doc



EXHIBIT 'D'

Inter Office Memo

DATE: March 14, 2007  
TO: PAO Investments, LLC  
FROM: Briza Sholars, Development Services *BS*  
SUBJECT: CEQA Determination  
Environmental Review No. 5785 (45499 Panoche Road)

**Project Description:**

The project proposes a partial cancellation of Williamson Act Contract No. 367 on 12.8 acres of a 128 acre parcel of land in the AE-20 (Exclusive Agriculture, 20-acre minimum lot size) Zone District to allow for future development of a thermal power plant. The project is located on the south side of Panoche Road between South Brannon Avenue and South Fairfax Avenue in an unincorporated area of Fresno County.

**Determination**

The proposed project is considered Statutory exempt from the California Environmental Quality Act (CEQA), under Section 15271, Early Activities Related to Thermal Power Plants. The following supports this determination:

1. The intent of Section 15271 of the CEQA Guidelines is to exempt or delay early activities related to thermal electric power plants which will be the subject of an EIR or Negative Declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by:
  - (a) The State Energy Resources Conservation and Development Commission,
  - (b) The Public Utilities Commission, or
  - (c) The city or county in which the power plant and related facility would be located.
2. Cancellation of Williamson Act Contract No. 367 is required for development of the proposed thermal power plant and is therefore, determined to an early activity required for the project.
3. The cancellation of Williamson Act Contract No. 367 as an early activity will be further analyzed as part of an EIR, Negative Declaration, or other



EXHIBIT 'C'

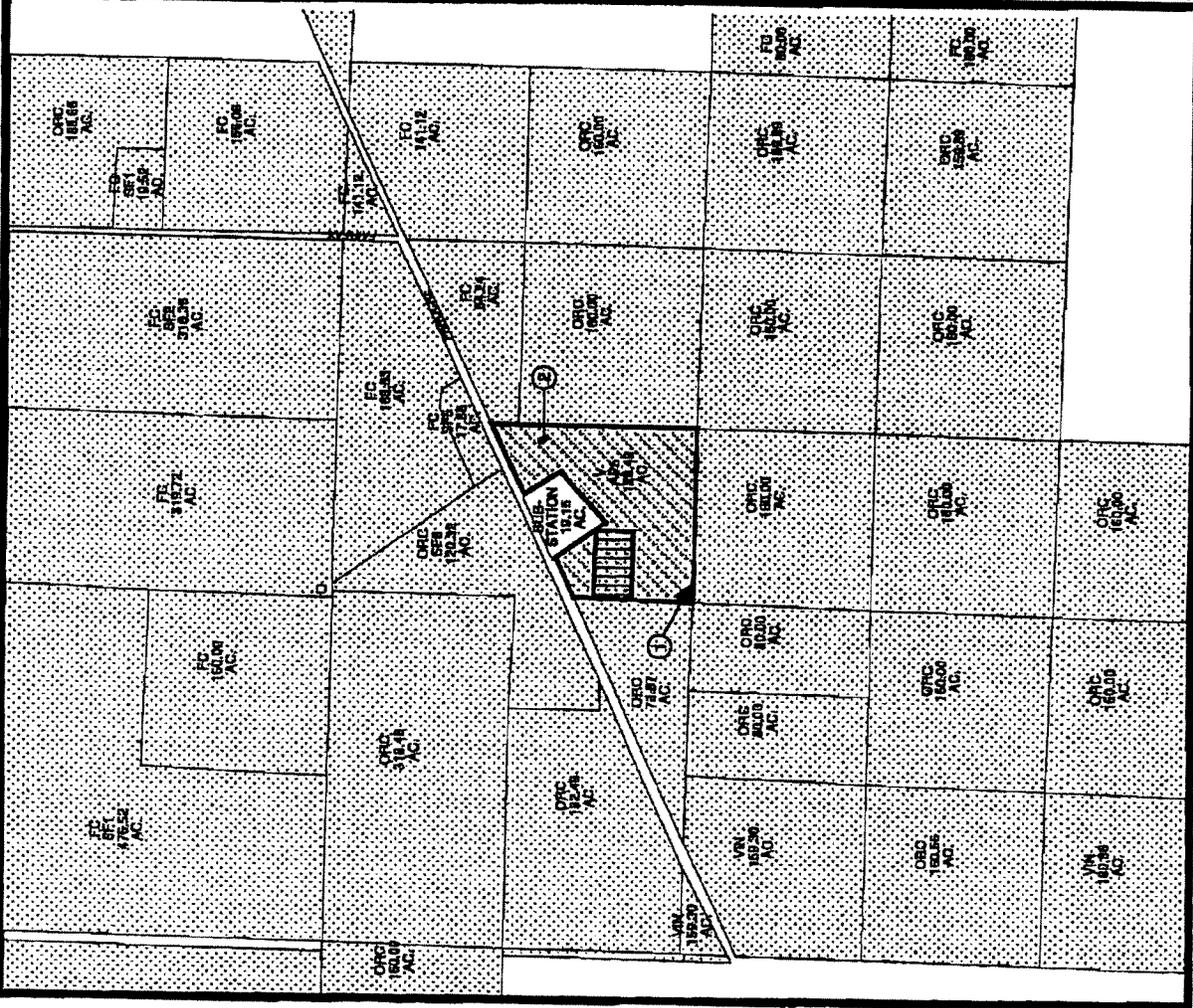
EXISTING LAND USE MAP

RLCC 838

AP1 - APARTMENT
FC - FIELD CROP
ORC - ORCHARD
SF# - SINGLE FAMILY RESIDENCE
V - VACANT
VIN - VINEYARD

 Subject Property  
 Ag Contract Land  
 Area to be Removed from Ag Contract Land

- ① Government Owned
- ② PG&E Owned



RLCC 838  
STR: 06 - 15/13

# EXISTING ZONING MAP

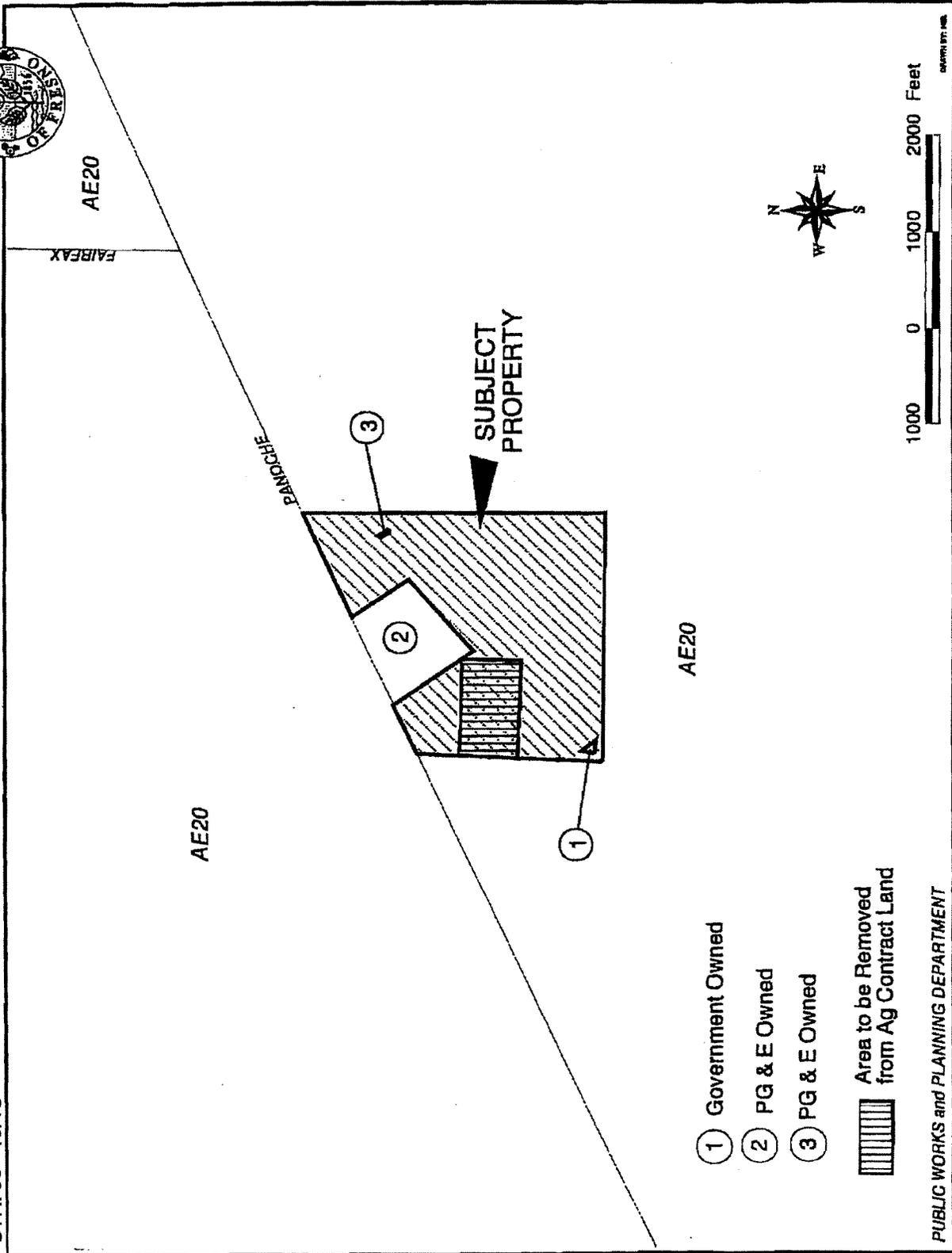


EXHIBIT 'B'

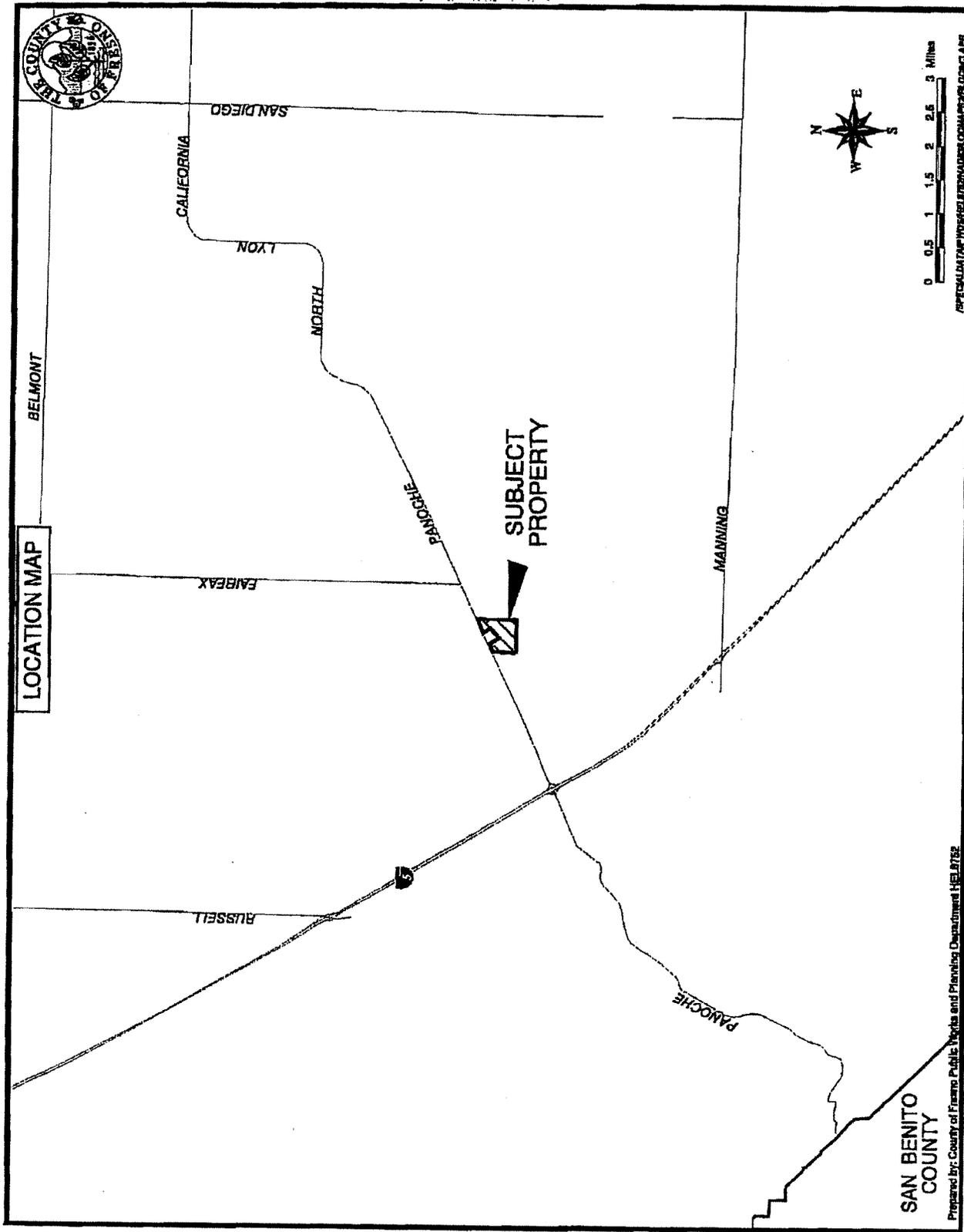
- ① Government Owned
- ② PG & E Owned
- ③ PG & E Owned

 Area to be Removed from Ag Contract Land

PUBLIC WORKS and PLANNING DEPARTMENT

COURTESY, DTG, INC.

EXHIBIT 'A'



LOCATION MAP

BELMONT

RUSSELL

EMBAX

CALIFORNIA

SAN DIEGO

LYON

NORTH

PANOCHE

SUBJECT  
PROPERTY

MANNING

PANOCHE

SAN BENITO  
COUNTY

Prepared by: County of Fresno Public Works and Planning Department 11/17/82

0 0.5 1 1.5 2 2.5 3 Miles

SPECIAL DISTRICT MAP PREPARED BY THE SAN BENITO COUNTY PLANNING DEPARTMENT



AGRICULTURAL LAND CONSERVATION COMMITTEE

April 4, 2007

Page 3

applicant reported that no less productive agricultural lands were identified as a result of the site selection investigation. Based on the information provided by the applicant, staff believes that the proposed alternate use is consistent with the General Plan. Based on this information, this finding can be made.

4. *That the cancellation will not result in discontinuous patterns of urban development.*

The proposed use of the property for a thermal power plant would not be considered urban development. Based on this, staff believes this finding can be made.

5. *That there is no proximate non-contracted land which is both available and suitable for the use to which it is proposed that the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.*

The applicant conducted an analysis of proximate non-contracted land, to determine if any non-contracted land was both available and suitable for the proposed alternate use. The applicant stated that in order to be suitable for development, of the proposed power plant would require that the land be in close proximity to the existing PG&E substation and to high-volume natural gas lines. Parcels within three miles of the subject property were examined by the applicant, but were all either subject to Williamson Act Contract or were too distant from the existing PG&E substation and/or high-volume natural gas lines to be considered feasible alternatives to the subject property.

ENVIRONMENTAL DETERMINATION:

It has been determined that the project proposal is considered statutorily exempt from CEQA, under Section 15271, Early Activities Related to Thermal Power Plants. A copy of the County's CEQA Determination memo is included as Exhibit 'D'.

OTHER REVIEWING AGENCIES:

As of January 1, 2001, Government Code Section 51284.1(a) requires notification to be provided by the County to the Director of the State Department of Conservation (the Director) once a cancellation application has been accepted as complete. Under Government Code Section 51284.1(c), the Director's comments are required to be considered by the Board of Supervisors before acting on the proposed cancellation. Pursuant to the Director's January 19, 2007, letter providing comments on the applicant's information related to the required findings, the Department of Conservation stated that the Board of Supervisors has a basis to find cancellation of the 12.82-acre portion of the Contract consistent with the purposes of the Williamson Act. The Director's comments are attached as Exhibit E.

AGRICULTURAL LAND CONSERVATION COMMITTEE

April 4, 2007

Page 2

DISCUSSION:

In order to approve a cancellation request, the Board of Supervisors must determine that the action is consistent with the Land Conservation Act of 1965. The law requires that five findings be made. Staff analysis of the required findings is as follows:

1. *That the cancellation is for land on which Notice of Nonrenewal has been served pursuant to Section 51245 of the Government Code.*

An executed Notice of Partial Nonrenewal for ALCC No. 367 was accepted by the County Recorder on November 6, 2006, and was assigned Document No. 2006-0236374. Nonrenewal was initiated on the entire 128 acres that comprise APN 027-060-78s.

2. *That the cancellation is not likely to result in the removal of adjacent lands from agricultural use.*

The subject property and adjacent parcels are currently devoted to agricultural uses, with the exception of the existing PG&E substation located on a separate parcel adjacent to the northeast of the area proposed for Williamson Act cancellation. The applicant has stated that the proposed location of the thermal power plant is ideal due to the existing infrastructure installed at the existing Pacific Gas & Electric substation and by the existing high-volume natural gas lines and 115 kilovolt transmission lines located on the subject parcel. Two power generation facilities already exist next to the PG&E substation. The existing infrastructure allows for efficient interconnection, which minimizes impacts, specifically environmental impacts.

Staff agrees that the proposed use of the property for a thermal power plant would not cause any disruption to adjacent parcels and would not result in restrictions on the use of adjacent parcels. While it is possible that adjacent land may be removed from agricultural use, for development of additional power plants, this would be due to the clustering of the necessary infrastructure for efficient interconnection with existing facilities and resources rather than the development of the proposed thermal power plant.

3. *That the cancellation is for an alternative use that is consistent with the provisions of the County General Plan.*

The subject property is designated Agriculture in the Fresno County General Plan. The proposed alternate use of the property is development of a thermal power plant. Permitting for this use is issued through the State of California, so no land use applications would be processed by the County of Fresno during development of the thermal power plant. Nevertheless, the County's General Plan allows for development of certain non-agricultural uses in areas designated for Agriculture.

According to information provided by the applicant, the location of a power generation facility within an urban environment has the potential to impact sensitive receptors such as schools and hospitals in addition to greater land use conflicts with residences. Further, the applicant indicated that the site selection investigation that was performed looked for land that was in sufficient proximity to the infrastructure listed above. The

Panoche

# County of Fresno



Department of Public Works and Planning  
Alan Weaver, Director

<b>DOCKET</b> <b>06-AFC-5</b>	
DATE	APR 04 2007
RECD.	MAY 01 2007

## Agricultural Land Conservation Committee Staff Report Agenda Item No. 3 April 4, 2007

**SUBJECT:** Review and make recommendation to forward to the Board of Supervisors regarding PARTIAL CANCELLATION of AGRICULTURAL LAND CONSERVATION CONTRACT NO. 367 (RLCC NO. 838)

**STAFF CONTACT:** Jared Nimer, Planner  
(559) 262-4846  
  
Margie McHenry, Senior Planner  
(559) 262-4870

### RECOMMENDATION:

Staff believes that the required findings can be made and recommends that application for Partial Cancellation of Agricultural Land Conservation Contract No. 367 be forwarded to the Board of Supervisors with a recommendation for approval, subject to the following conditions:

1. Payment in full of the cancellation fee.
2. Unless the cancellation fee is paid or a Certificate of Cancellation of Contract is issued within one year from the date of the recording of this certificate, the cancellation fee shall be recomputed as of the date of notice by the landowner to the Board of Supervisors required by Government Code Section 51283.4.
3. The landowner shall obtain all permits necessary to commence the project.

### BACKGROUND:

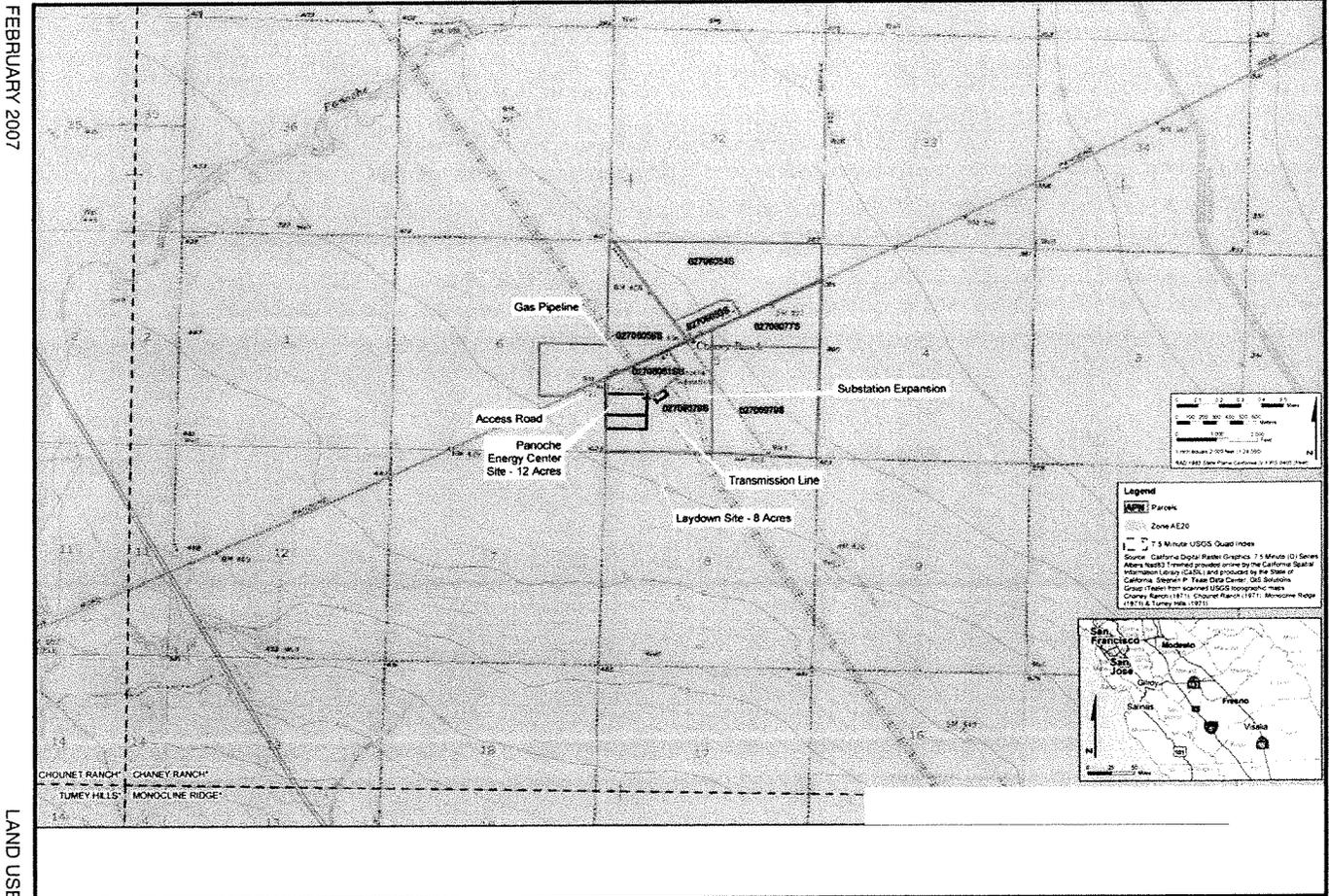
The Agricultural Land Conservation Committee reviews requests for Cancellation of Agricultural Land Conservation Contracts for consistency with the purposes of the Williamson Act, pursuant to Section 51282 of the Government Code. Action to approve or deny an application for contract Cancellation becomes a recommendation to the Board of Supervisors.

PAO Investments, LLC (Applicant) filed an application for Partial Cancellation of Agricultural Land Conservation Contract (ALCC) No. 367. The proposal seeks to remove 12.82 acres of prime agricultural land from Contract restrictions for development of a 200-megawatt thermal power plant. This application has been assigned RLCC No. 838.

The subject property is located on the south side of Panoche Road, between Interstate 5 and Fairfax Avenue, approximately 12.6 miles southwest of the City of Mendota. (See Location Map Exhibit 'A', Zoning Map Exhibit 'B', and Land Use Map Exhibit 'C').

**LAND USE APPENDIX 1**

LAND USE - FIGURE 2  
 Panoche Energy Center - Zoning Designations



FEBRUARY 2007

LAND USE

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notice by the landowner to the Board of Supervisors required by  
Government Code Section 51283.4.

3. The landowner shall obtain all permits necessary to commence the  
project.

IN WITNESS WHEREOF, I have unto set my hand and seal this 24th day of  
April, 2007.



Bob Waterston, Chairman  
Board of Supervisors

ATTEST:

Bernice E. Seidel, Clerk  
Board of Supervisors



  
By Deputy

**EXHIBIT 'A'**

Legal Description  
Area Covered by Petition for Partial  
Cancellation of Williamson Act Contract

Being a portion of real property in the Southwest Quarter of Section 5 Township 15 South, Range 13 East, Mount Diablo Base and Meridian, according to the official plat thereof lying Southerly of Panoche Road, being a portion of that certain real property described in a document dated June 13, 1978 to Robert Hansen, Trustee under the Sharla M. Baker Trust as Instrument No. 89-106620 Official Records, County of Fresno, vicinity of Firebaugh, California more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 5 at a found 2" iron pipe thence along the West line of said Section 5 being the Southwest Quarter thereof North  $01^{\circ}34'29''$  East 902.88 feet; thence leaving the West line of said Section 5 through the interior of said Southwest Quarter of Section 5 the following seven (7) courses: South  $89^{\circ}10'03''$  East 39.95 feet to the POINT OF BEGINNING of the herein described real property; North  $00^{\circ}49'57''$  East 522.11 feet; South  $89^{\circ}10'03''$  East 1,001.11 feet; South  $00^{\circ}49'57''$  West 690.97 feet; North  $89^{\circ}10'03''$  West 212.94 feet; North  $00^{\circ}49'57''$  East 168.86 feet; North  $89^{\circ}10'03''$  West 788.17 feet to the POINT OF BEGINNING.

Containing 558,646 square feet of land (12.82 acres) more or less.

This description is based on record information. The Basis of Bearings are NAD 1983, Epoch 2004.50, California Coordinate System, Zone 4 and are based upon a GPS Survey constrained to NGS monuments: AC6117 (HPGN D CA 06 NC) survey disk in bridge abutment and GU4142 (Z 1444) stainless steel rod.

3

**LAND USE APPENDIX 3**

TABLE LU-3			
TYPICAL USES ALLOWED IN AREAS DESIGNATED AGRICULTURE (Policies LU-A.2 and LU-A.3)			
BY RIGHT	SPECIAL PERMIT USES		
Agricultural Uses	Special Agricultural Uses	Agriculturally-Related & Value-Added Agricultural Uses	Agricultural Commercial Center Uses & Other Non-Agricultural Uses
<p>Crop &amp; livestock production, except as specified under special permit uses</p> <p>Packing, processing &amp; sale of crops produced on premises, or where such activity is carried on in conjunction with or as part of a bonafide agricultural operation under the same ownership, except as specified under special permit uses</p> <p>Sale of livestock produced or raised on the premises</p> <p>Residences</p> <p>Home occupations</p> <p>Certain oil &amp; gas development activities pursuant to the policies in Section OS-C, Mineral Resources, of the Open Space and Conservation Element</p>	<p>Cattle feed lots</p> <p>Dairies</p> <p>Goat lots</p> <p>Swine yards</p> <p>Poultry operations</p> <p>Fish farms</p>	<p>Wineries &amp; distilleries</p> <p>Cotton ginning</p> <p>Cottonseed delinting</p> <p>Tree nut hulling &amp; shelling</p> <p>Trucking operations servicing the agricultural community</p> <p>Inspection &amp; weighing services associated with transportation of agricultural products</p> <p>Commercial land leveling &amp; developing establishments</p> <p>Farm labor camps</p> <p>Commercial grain elevators</p> <p>Dehydration operations</p> <p>Commercial soil preparation service establishments</p> <p>Commercial packing &amp; processing of crops</p> <p>Commercial meat processing plants</p>	<p><u>Commercial Centers:</u></p> <ul style="list-style-type: none"> <li>• Veterinary Services &amp; hospitals</li> <li>• Medical &amp; health services</li> <li>• Irrigation systems administration offices</li> <li>• Water-well drilling services</li> <li>• Farm equipment &amp; machinery sales, rental, storage &amp; maintenance</li> <li>• Welding &amp; blacksmith shops</li> <li>• Agricultural employment services</li> <li>• Feed &amp; farm supply sales</li> <li>• Fertilizer sales</li> <li>• Building materials sales</li> <li>• Hardware stores</li> <li>• Grocery stores</li> <li>• Gasoline service stations</li> <li>• Liquefied petroleum gas distribution &amp; storage</li> <li>• Livestock auction market</li> </ul> <p><u>Other:</u></p> <ul style="list-style-type: none"> <li>• Organic &amp; inorganic fertilizer manufacturing &amp; mixing</li> <li>• Boarding &amp; training kennels</li> <li>• Home occupations</li> <li>• Sewage treatment plants</li> <li>• Solid waste disposal</li> <li>• Race tracks</li> <li>• Pistol &amp; rifle range</li> <li>• Churches</li> <li>• Schools</li> <li>• Cemeteries</li> <li>• Commercial stables &amp; riding academies</li> <li>• Golf courses</li> <li>• Radio &amp; television broadcasting stations</li> <li>• Wireless communication facilities</li> <li>• Electrical substations</li> <li>• Liquefied petroleum gas distribution &amp; storage</li> <li>• Airports</li> <li>• Detention facilities</li> <li>• Interstate freeway commercial development</li> <li>• Mineral extraction and oil and gas development pursuant to the policies in Section OS-C, Mineral Resources, of the Open Space and Conservation Element.</li> </ul>

**LAND USE APPENDIX 4**

7500000

Table 1A.  
Land Evaluation Worksheet

Land Capability Classification (LCC)  
and Storie Index Scores

A	B	C	D	E	F	G	H
Soil Map Unit	Project Acres	Proportion of Project Area	LCC	LCC Rating	LCC Score	Storie Index	Storie Index Score
UCL	15	1	I	100	100	75	75
<b>Totals</b>	<b>15</b>	<b>(Must Sum to 1.0)</b>		<b>LCC Total</b>	<b>100</b>	<b>Storie Index Total</b>	<b>75</b>

Project  
Area  
2000  
2000

Table 1B.  
Site Assessment Worksheet 1.

Project Size Score

I	J	K
LCC Class I - II	LCC Class III	LCC Class IV - VIII
15		
<b>Total Acres</b>	<b>15</b>	
<b>Project Size Scores</b>	<b>30</b>	

Highest Project Size Score **30**

**Table 4. Site Assessment Worksheet 2. - Water Resources Availability**

A	B	C	D	E
Project Portion	Water Source	Proportion of Project Area	Water Availability Score	Weighted Availability Score (C x D)
1	irrigation	1	90	90
2				
3				
4				
5				
6				
		(Must Sum to 1.0)	<b>Total Water Resource Score</b>	90

Site Assessment Worksheet 3.  
 Surrounding Agricultural Land and Surrounding Protected Resource Land

A	B	C	D	E	F	G
Total Acres	Acres in Agriculture	Acres of Protected Resource Land	Percent in Agriculture (A/B)	Percent Protected Resource Land (A/C)	Surrounding Agricultural Land Score (From Table)	Surrounding Protected Resource Land Score (From Table)
15	15	983	100	100	100	100

**PANOCHÉ ENERGY CENTER  
APPLICATION FOR CERTIFICATION  
RESPONSE TO CEC DATA ADEQUACY REQUESTS  
06-AFC-5**

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**LEGAL DESCRIPTION  
PREMISES BOUNDARY EASEMENT  
"PROPOSED PANOCHÉ ENERGY CENTER"  
PORTION OF  
ASSESSOR'S PARCEL 027-060-78S  
VICINITY OF FIREBAUGH,  
FRESNO COUNTY, CALIFORNIA**

October 9, 2006

Being a portion of real property in the Southwest Quarter of Section 5 Township 15 South, Range 13 East, Mount Diablo Base and Meridian, according to the official plat thereof lying Southerly of Panoche Road, being a portion of that certain real property described in a document dated June 13, 1978 to Robert Hansen, Trustee under the Sharla M. Baker Trust as Instrument No. 89-106620 Official Records, County of Fresno, vicinity of Firebaugh, California more particularly described as follows:

**COMMENCING** at the Southwest Corner of said Section 5 at a found 2" iron pipe thence along the West line of said Section 5 being the Southwest Quarter thereof North 01° 34' 29" East 902.88 feet; thence leaving the West line of said Section 5 through the interior of said Southwest Quarter of Section 5 the following seven (7) courses: South 89° 10' 03" East 39.95 feet to the **POINT OF BEGINNING** of the herein described real property; North 00° 49' 57" East 522.11 feet; South 89° 10' 03" East 1001.11 feet; South 00° 49' 57" West 690.97 feet; North 89° 10' 03" West 212.94 feet; North 00° 49' 57" East 168.86 feet; North 89° 10' 03" West 788.17 feet to the **POINT OF BEGINNING**.

*Containing 559.646 square feet of land (12.97 acres), more or less.*





