



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



December 19, 2012

Richard J. Bruckner
Director

Renee Robin
SunPower Corporation
1414 Harbour Way South
Richmond, CA 94804

**REGARDING: PROJECT NO. R2010-00808-(5)
MODIFICATION TO CONDITIONAL USE PERMIT NO. 201000071
BETWEEN AVENUE A AND AVENUE B AND 130TH STREET WEST AND
160TH STREET WEST (APNs: 3258-001-001, 3258-001-024, 3258-001-025,
3258-001-028, 3258-001-029, 3258-001-030, 3258-001-031, 3258-001-038,
3258-001-040, 3261-001-002, 3261-001-003, 3261-001-004.)**

Hearing Officer Patricia Hachiya, by her action on December 18, 2012 has **APPROVED** the above-referenced request. Enclosed are the Hearing Officer's Findings and modified Condition of Approval. This approval is not effective until the appeal period has ended and the required documents are submitted to the Regional Planning Department (see enclosed Affidavit of Acceptance Instructions).

The applicant or any other interested persons may appeal the Hearing Officer's decision. The appeal period for this project will end at 5:00 p.m. on **January 2, 2013. Appeals must be delivered in person.**

Appeals: To file an appeal, please contact:
Regional Planning Commission, Attn: Commission Secretary
Room 1350, Hall of Records
320 West Temple Street, Los Angeles, CA 90012
(213) 974-6409

Upon completion of the appeal period, the notarized Affidavit of Acceptance and any applicable fees must be submitted to the planner assigned to your case. Please make an appointment to ensure that processing will be completed in a timely manner. Failure to submit these documents and applicable fees within 60 days will result in a referral to Zoning Enforcement for further action.

For questions or for additional information, please contact Anthony Curzi of the Zoning Permits North Section at (213) 974-6443, or by email at acurzi@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,
DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner

Susan M. Tae, AICP Supervising Regional Planner
Zoning Permits North Section

Enclosures: Findings, Modified Condition, Affidavit of Acceptance (Permittee's Completion)
c: DPW (Building and Safety); Zoning Enforcement

SMT:amc

**FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES
PROJECT NO. R2010-00808-(5)
MODIFICATION TO CONDITIONAL USE PERMIT NO. 201000071**

1. **ENTITLEMENT REQUESTED.** The applicant, Solar Star California XIX, LLC, is requesting a minor modification to Conditional Use Permit (CUP) No. 201000071 Condition No. 28 to authorize an increase in allowable water use during the 36-month construction period for a photovoltaic solar facility in the A-2-5 (Heavy Agricultural – Five Acre Minimum Required Lot Area) Zone.
2. **MEETING DATE.** December 18, 2012.
3. **PROCEEDINGS BEFORE THE HEARING OFFICER.** Staff presented the case and recommended approval. The applicant and applicant's counsel were present and were available to answer questions. The Hearing Officer, having no questions or concerns, certified the Environmental Impact Report Addendum and approved the condition modification.
4. **PROJECT DESCRIPTION.** The applicant proposes a modification of Condition No. 28 of previously approved CUP 201000071 to authorize an increase in the amount of water usage for construction of a photovoltaic solar facility. Condition No. 28 currently allows a maximum of 35 acre-feet per year (AFY) or 105 acre-feet (AF) total during the three-year construction phase. The applicant requests to increase this amount to an average of 110 AFY or a total of 330 AF during the three-year construction period. All water used will come from a source outside the adjudication area of the Antelope Valley Groundwater Basin. Additional water will be trucked in from a location in Kern County, and will result in a potential of 13 trips per day to the Los Angeles County portion of the project site during the construction period. An addendum to the certified Environmental Impact Report has been prepared that substantiates that no new impacts from the proposed action will occur.
5. **LOCATION.** The subject property is located between Avenue A and Avenue B and between 130th Street West and 160th Street West, at the Kern County boundary, within the Antelope Valley West Zoned District and in the Fifth Supervisorial District. The Assessor's Parcel Numbers are 3258-001-001, 3258-001-024, 3258-001-025, 3258-001-028, 3258-001-029, 3258-001-030, 3258-001-031, 3258-001-038, 3258-001-040, 3261-001-002, 3261-001-003, and 3261-001-004.
6. **EXISTING ZONING.** The subject site is zoned A-2-5. Surrounding zoning is as follows:
North: A-2-5
South: A-2-5
East: A-2-5
West: A-2-5

7. **EXISTING LAND USES.** The subject site contains vacant land previously used for agricultural purposes. Surrounding land uses within 1000 feet are as follows:
North: Vacant land
South: Vacant land
East: Vacant land
West: Vacant land
8. **PREVIOUS CASES / ZONING HISTORY.** CUP 201000071, approved on October 19, 2011 by the Los Angeles County Regional Planning Commission (RPC), authorized the construction, operation, and maintenance of a photovoltaic solar electricity generating plant on 1,238 acres of a total 4,782 acres, of which the remainder is located in Kern County. A Final EIR determined that there would be significant and unavoidable impacts with respect to aesthetics, at both a project and cumulative level; prime farmland, at both a project and cumulative level; air quality at a cumulative level, and biological resources at a cumulative level. The Findings of Fact, Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program were also adopted by the RPC on October 19, 2011.
9. **GENERAL PLAN / COMMUNITY PLAN CONSISTENCY.** The previously approved project for a solar energy facility was found to be consistent with both the Los Angeles County General Plan and the Antelope Valley Areawide General Plan ("Area Plan"). The subject site is within the N1 (Non-Urban 1) land use category of the Area Plan. The proposed modification will not change this land use and only allows an increase in water use for construction purposes. Policy 102 of the Area Plan states the following:
- *Use imported water, when available, to relieve overdrafted groundwater basins and maintain their safe yield for domestic uses outside of urban areas. Water that will be used for construction and operational purposes will be imported water from outside the Antelope Valley Groundwater Basin. As such, groundwater will be protected from overdraft.*
10. **ZONING ORDINANCE AND DEVELOPMENT STANDARDS COMPLIANCE.** The proposed modification will not change the zoning of the subject site, which is A-2-5. Electricity generating plants are permitted in the A-2-5 zone with the issuance of a conditional use permit. The approved facility will comply with all zoning and development standards, and the proposed modification will not affect these standards or the compliance therewith.
11. **NEIGHBORHOOD IMPACT/LAND USE COMPATIBILITY.** The proposed modification will allow the applicant to use more water during the 36-month construction period to better control dust. Allowing such a change will better ensure that neighborhood impacts are kept to a minimum. The additional water

will be from a source outside the Antelope Valley Groundwater Basin, and additional truck trips were found to be a *de minimis* impact. All other features of the solar facility will remain as previously analyzed and approved.

12. **COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS.** No comments were received.
13. **OTHER AGENCY COMMENTS AND RECOMMENDATIONS.** No comments were received.
14. **LEGAL NOTIFICATION AND PUBLIC OUTREACH.** Pursuant to the provisions of Sections 22.56.1620 of the County Code, the community was appropriately notified of the application by mail, newspaper and property posting.
15. **PUBLIC COMMENTS.** No comments were received.

MODIFICATION TO CONDITIONAL USE PERMIT SPECIFIC FINDINGS

16. The proposed modification to Condition No. 28 will not change the land use for the site as approved. Such land use, an electricity generating plant, is consistent with the adopted general plan for the area.

Therefore, the proposed use will be consistent with the adopted general plan for the area.

17. The proposed modification of Condition No. 28 will not change the overall scope of the previously approved project and will not alter the means by which the burden of proof was met. The proposed modification will allow the applicant to better meet the needs of the community.

- No protests were received during the specified protest period pursuant to Section 22.56.1630.A.

Therefore, not more than one protest was received and staff may recommend approval to the Hearing Officer of the modification.

- The proposed modification of Condition No. 28 will authorize an increase in water use for construction purposes for dust control and will be beneficial as it will allow the applicant to better mitigate construction impacts. Water will be brought to the site via trucks and additional truck traffic has been found to be a *de minimis* impact.

Therefore, the requested use at the location proposed will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and will not jeopardize,

endanger or otherwise constitute a menace to the public health, safety or general welfare.

- The proposed modification to Condition No. 28 will not change the size or shape of the property or any physical feature of the approved solar project. The request is to allow an increase in the allowable water usage for a 36-month construction period, and does not change the physical layout or design of the approved facility.

Therefore, the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, of as is otherwise required in order to integrate said use with the uses in the surrounding area.

Therefore, the burden of proof for the conditional use permit as modified has been satisfied pursuant to Section 22.56.040.

18. The proposed modification of Condition No. 28 will in no way change existing or proposed highway or street layouts, widths, or improvements. All highways and streets in the vicinity are adequate to carry the kind and quantity of traffic generated by the project, including additional truck trips that would be generated by the additional water.

Therefore, the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required.

19. The proposed modification of Condition No. 28 will only allow for more water use during the construction phase of the project to allow for better dust control. All water used for construction will come from a source outside the Antelope Valley Groundwater Basin. Such a change will result in a beneficial impact to the overall project. All other terms and conditions will remain as is with this modification.

Therefore, the modified conditional use permit will not materially deviate from the terms and conditions imposed in the previously approved conditional use permit.

20. Allowing the applicant the possibility of having more water available to control dust during construction will permit the applicant to prevent and minimize impacts, while otherwise allowing the project to fulfill its obligations.

21. As dust from construction is a special concern for solar projects, allowing the applicant to use more water for construction purposes is necessary to ensure that dust is under control, while otherwise allowing the project to fulfill its obligations.

Therefore, the approval of the application is necessary to allow the reasonable operation and use granted in the conditional use permit.

ENVIRONMENTAL DETERMINATION

22. The project's impacts were fully analyzed in an environmental impact report, and an addendum to the final environmental impact report was prepared that substantiates that no new impacts from the proposed modification will occur.

Therefore, the Hearing Officer, acting in its role as responsible agency for the project, certifies that the Final Environmental Impact Report Addendum has been completed in compliance with the California Environmental Quality Act and the State and County guidelines related thereto and reflects the independent judgment and analysis of the County.

23. **RECORD OF PROCEEDINGS.** The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits North Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

- A. That the proposed use will be consistent with the adopted general plan for the area; and
- B. That the burden of proof for the conditional use permit as modified has been satisfied pursuant to Section 22.56.040:
- a. Not more than one protest was received during the specified protest period pursuant to Section 22.56.1630.A;
 - b. That the requested use at the location proposed will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare;
 - c. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, of as is otherwise required in order to integrate said use with the uses in the surrounding area;
 - d. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity

of traffic such use would generate, and by other public or private service facilities as are required; and

- C. That the modified conditional use permit will not materially deviate from the terms and conditions imposed in the previously approved conditional use permit; and
- D. That the approval of the application is necessary to allow the reasonable operation and use granted in the conditional use permit.

THEREFORE, the information submitted by the applicant and presented at the public meeting substantiates the required findings for Modification to Conditional Use Permit No. 201000071 as set forth in Section 22.56.1600 and 22.56.090 of the County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. The Hearing Officer, acting in its role as responsible agency for the project, certifies that the Final Environmental Impact Report Addendum has been completed in compliance with the California Environmental Quality Act and the State and County guidelines related thereto and reflects the independent judgment and analysis of the County.
2. In view of the findings of fact and conclusions presented above, the modification to condition no. 28 to Conditional Use Permit No. 201000071 is approved.

Action Date: December 18, 2012

SMT:amc
December 18, 2012

c: Hearing Officer, Zoning Enforcement, Building and Safety

ADDENDUM TO CONDITIONAL USE PERMIT CASE NO. 201000071

MINOR MODIFICATION OF CONDITION NO. 28 OF CONDITIONAL USE PERMIT NO. 201000071

Pursuant to Part 11 of the Los Angeles County Zoning Ordinance (Conditional Use Permit – Modifications or Eliminations of Conditions), and in conformance with the Hearing Officer approval action regarding minor modification to Conditional Use Permit No. 201000071 on December 18, 2012, Condition No. 28 of the originally approved Conditional Use Permit No. 201000071 is hereby amended to read as follows:

28. The project shall be limited to an average use of 110 acre-feet per year (“AFY”) for a total of 330 acre-feet of water for the duration of the project’s 36-month construction period. The project shall be limited to a maximum use of 11 AFY of water for operation of the project for the duration of this grant. Any water utilized on the subject property for construction and/or operation of the project, including but not limited to facility operations, construction, periodic PV module washing, and domestic (potable) use, shall be supplied entirely from a source located outside the Antelope Valley Groundwater Basin, irrespective of any supply contracts in place.

Action Date: December 18, 2012

