

**COUNTY OF LAKE
MAJOR USE PERMIT, UP 18-47
INITIAL STUDY, IS 18-70**

SCOTTS VALLEY BAND OF POMO INDIANS

CONDITIONS OF APPROVAL

Expires if not used by: March 19, 2022

Pursuant to the approval of the Lake County Planning Commission on March 19, 2020, there is hereby granted to **Scotts Valley Band of Pomo Indians, a Major Use Permit (UP 19-05) to allow a small-scale bioenergy production facility using woody biomass to produce syngas and biochar. The syngas will power the generators that run the system and the biochar is a by-product of the bioenergy process that functions as an agricultural or forestry soil amendment (the total footprint of the project is approximately 43,350 square feet), on property located at 7130 Red Hills Rd, Kelseyville, CA 95451.; and further described as APNs: 009-021-07**, subject to the following terms and conditions.

A. GENERAL CONDITIONS:

1. The use hereby permitted shall substantially conform to the ***Project Description, Initial Study and Sites Plans*** and any conditions of approval imposed by the Major Use Permit to the proposed use. The Community Development Director may approve, in writing, minor modifications that do not result in increased environmental impacts. Applicant shall be in substantial conformance with the following:
2. This permit does not abridge or supercede the regulatory powers or permit requirements of any federal, state, local agency, special district or department which may retain a regulatory or advisory function as specified by statute or ordinance. **Prior to operation**, the applicant shall obtain permits all necessary permits required from each agency.
3. The permit holder is responsible for ensuring that all project workers are informed of understand, and agree to abide by the approved plans and project conditions.
4. All construction shall be reviewed and approved by a *California-Licensed Professional Civil Engineer or Architect*, and be constructed to those specifications, subject to review and approval of the Community Development Department.
5. The permit holder shall comply, and maintain necessary permits from the Lake County Environmental Health Department regarding the use of well(s) and onsite waste management systems (septic). The applicant shall contact the Department of Environmental Health at (707) 263-1163 for further information.
6. **Prior to occupancy and/or operation**, all structure(s) shall meet accessibility standards. Please contact the Community Development Department - Building Division for more information.
7. **Prior to occupancy and/or operation**, all accessible compliant parking areas, routes of travel, building access and/or bathrooms shall meet all California Building Code Requirements.
8. **Prior to occupancy and/or operation**, the permit holder shall adhere to all requirements of Chapter 13 of the Lake County Code, including but not limited to adherence with the Hazardous Vegetation requirements.
9. **Prior to occupancy and/or operation**, the permit holder shall adhere to all current California Fire Code, including 4290 and 4291 of the Public Resource Code regulations and/or requirements. The applicant shall contact the Community Development Department – Building Division at (707) 263-2382 for further

information.

10. The proper storage of equipment, removal of litter and waste, and cutting of weeds or grass shall not constitute an attractant, breeding place or harborage for pest.
11. Any outdoor storage shall be maintained in an orderly manner and shall not create a fire, safety, health and/or sanitary hazard
12. This permit shall be null and void if not used by **March 19, 2022**, or if the use is abandoned for a period of two (2) years.

B. AESTHETICS:

1. All structures associated with the Project, including the building and any new fencing, shall use neutral, earth-tone colors in order to blend into the surrounding environment. Low glare building materials shall be used for new building construction (Mitigation Measure AES-1)
2. Existing healthy, non-hazardous vegetation that provides screening to the Project Site along the western boundary shall be maintained. (Mitigation Measure AES-2)
3. All outdoor lighting shall be shielded and downcast or otherwise positioned in a manner that will not broadcast light or glare beyond the boundaries of the subject property. All lighting equipment shall comply with the recommendations of the International Dark-Sky Association (www.darksky.org) and provisions of Section 21.48 of the Zoning Ordinance. Security lighting shall be motion activated. (Mitigation Measure AES-3)
4. **Prior to the installation of signage**, the permit holder shall submit a Signage Plan to the Community Development Department for review and approval. All signage shall be in accordance with Section 21-45.11 or 21-45.12 of the Zoning Ordinance.

C. AIR QUALITY:

1. **Prior to the commencement of construction**, applicant shall submit to the Lake County Air Quality Management District a complete list of all equipment to be used at the site with the potential to emit air contaminants, including diesel powered generators, pumps, off-road equipment, etc. and secure all necessary permits for all eligible operations and equipment as required by the District. Diesel powered equipment must meet the requirements of the State Air Toxic Control Measures for CI engines (stationary and portable). All mobile diesel equipment used must be in compliance with State registration requirements. Portable and stationary diesel-powered equipment must meet the requirements of the for-CI engines. (Mitigation Measure AIR-1)
2. **Prior to operation**, the primary access roads and parking area shall be constructed, surfaced and maintained with an all-weather surface of asphaltic concrete or concrete unless another all-weather surface is approved by the review authority to minimize dust impacts to the public, visitors and road traffic. All areas subject to semi-truck/trailer traffic shall require asphaltic concrete paving or equivalent to prevent fugitive dust generation. Gravel surfacing may be adequate for low use/overflow driveways and parking areas if it receives regular palliative treatment. The use of white rock for surfacing is prohibited. (Mitigation Measure AIR-2)
3. Dust control measures shall be implemented to minimize fugitive dust emissions from the Project Site. Dust control measures may consist of approved chemical, structural, or mechanical methods and shall be reapplied at the necessary intervals to prevent wind erosion. (Mitigation Measure AIR-2)
4. **Prior to any ground disturbance**, the permittee shall submit a Dust Mitigation Plan to the Lake County Air Quality Management District for review and approval and submit a copy of the approved plan to the Community Development Department.

Said plan shall detail proposed dust control methods during and post constructions, including the source of water, equipment to be used. Applicant shall contact the Lake County Air Quality Management District for details.

4. The applicant shall submit an Asbestos Notification Form to the Lake County Air Quality Management District (LCAQMD) for any remodeling and/or demolition. Applicant shall contact the LCAQMD for details.
 - *The National Emissions Standards for Hazardous Air Pollutants (NESHAP) for asbestos in buildings requires asbestos inspections by a Certified Asbestos Consultant for major renovations and all demolitions. A complete survey includes inspection of attic spaces, crawl spaces, areas with pipes or heating ducts and equipment.*
 - *An Asbestos Notification (with complete survey and lab report) must be submitted to the Lake County Air Quality Management District at least fourteen (14) days prior to beginning any renovations or demolition work. If regulated asbestos is found, the facility must be abated prior to demolition or renovation (where asbestos may be disturbed).*
5. Construction and/or work practices that involved masonry, gravel, grading activities, vehicular and fugitive dust shall be management by use of water or other acceptable dust palliatives to maintain two inches of visibly-moist soil in the project area and to ensure that dust does not leave the property.
6. All roads, trails and access routes shall be paved and/or adequately surfaced/managed to prevent dust generation. **Surfacing/management shall occur prior to the construction and occupancy** to minimize dust generation and track out issues. The LCAQMD shall approve of management practices.
7. Vegetation that is removed for development shall be properly disposed. The applicant shall chip vegetation and spread the material for erosion control. The burning of demolition and/or construction debris is prohibited.
8. Base rock shall be placed on existing roadways during any initial grading to help minimize dust generation from vehicle traffic and development. Regular palliative treatment may be considered as an alternative to paving while being developed.
9. All construction equipment shall be maintained, and in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition.

D. BIOLOGICAL RESOURCES:

1. **This use permit approval shall not become effective, operative, vested or final until** the applicant the California Department of Fish & Wildlife filing fee shall be submitted as required by California Environmental Quality Act (CEQA) statute, Section 21089(b) and Fish and Game Code Section 711.4. The fee should be submitted to the Community Development Department within five (5) days of approval of the mitigated negative declaration.
2. **Prior to oak tree removal,** a Revegetation Plan shall be approved by the Community Development Department. The plan shall include replacement of mature oak trees (diameter greater than six inches at breast height) removed during construction with native species that have been recorded in the project area. Three oak trees shall be planted to replace each mature oak tree removed. Maintenance of the replacement trees shall continue until permanent establishment is achieved.

E. CULTURAL RESOURCES:

1. Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted in the vicinity of the find(s), and a qualified archaeologist retained to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development

Director. The applicant shall halt all work and immediately contact the Lake County Sheriff's Department and the Community Development Department if any human remains are encountered. (Mitigation Measure CULT-1)

2. A cultural resource monitor shall be present during ground disturbance activities. (Mitigation Measure CULT-2)

F. GEOLOGY & SOILS:

1. The permit holder shall protect the local watershed with the implementation of Best Management Practices (BMPs) in accordance with the Chapter 30 (Grading Ordinance) of the Lake County Code and the Project Description dated October 24, 2019 to prevent or reduce discharge of all pollutants and hazardous materials offsite. No silt, sediment or other materials exceeding natural background levels shall be allowed to discharge from the project area. The natural background level is the level of erosion that currently occurs from the area in a natural, undisturbed state. Typical BMPs include the placement of straw, mulch, seeding, straw wattles, silt fencing and the planting of native vegetation on all disturbed areas. Following construction, all exposed soil shall be protected by covering with vegetation, mulch, gravel or other surface treatment as appropriate for permanent erosion control. Erosion and sediment control measures shall be in place by the end of the grading project and shall be maintained until such time that permanent control has been established. (Mitigation Measure GEO-1)
2. Excavation, filling, vegetation clearing or other disturbance of the soil shall not occur between October 15 and April 15 unless authorized by the Community Development Director. The actual dates of the allowable grading period may be adjusted according to weather and soil conditions at the discretion of the Community Development Director. (Mitigation Measure GEO-2)
3. The permit holder shall monitor the site during the rainy season (October 15 – April 15), including post-installation, implementation of BMPs, erosion control maintenance, and other improvements as needed. (Mitigation Measure GEO-3)
4. Native vegetation shall be retained and protected where its removal is not necessary to implement the grading project or to meet fire safety regulations. (Mitigation Measure GEO-4)
5. **Prior to any ground disturbance**, the permit holder shall submit Erosion and Sediment Control Plans to the Water Resource Department and the Community Development Department for review and approval.
 - *Said Erosion Control and Sediment Plans shall protect the local watershed from runoff pollution through the implementation of appropriate Best Management Practices (BMPs) in accordance with the Grading Ordinance. Typical BMPs include the placement of straw, mulch, seeding, straw wattles, silt fencing and the planting of native vegetation on all disturbed areas. No silt, sediment or other materials exceeding natural background levels shall be allowed to flow from the project area. The natural background level is the level of erosion that currently occurs from the area in a natural, undisturbed state. Vegetative cover and water bars shall be used as permanent erosion control after vineyard installation.*
 - *If development/grading activities are greater than one (1) acre of new development, the project shall require coverage under a Construction General Permit for Storm Water Management, including a Storm water Pollution Prevention Plan (SWPPP). Said plans shall be submitted to the Community Development Department and the Lake County Department of Water Resources for review and approval, **prior to the issuance of any permits**. The applicant shall contact the Central Valley Regional Water Quality Control Board at (916) 464-4812 for further information*

6. The permit holder shall monitor the site during the rainy season (*October 15 -May 15*), including post-installation, application of BMPs, erosion control maintenance, and other improvements as needed.

G. HAZARDS & HAZARDOUS MATERIALS:

1. The storage of potentially-hazardous materials shall be located at least 100 feet from any existing water well. These materials shall not be allowed to leak onto the ground or contaminate surface waters. Collected hazardous or toxic materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such materials. (Mitigation Measure HAZ-1)
2. If operation includes storage of hazardous materials equal to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division. Industrial waste shall not be disposed of on site without review or permit from Lake County Environmental Health Division or the California Regional Water Quality Control Board. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site. (Mitigation Measure HAZ-2)
3. The permit holder shall operate in full compliance with fire safety rules and regulations and instruct all project workers that the project involves working adjacent to flammable vegetation. All activities shall be performed in a safe and prudent manner with regards to fire prevention. Vehicles and equipment shall be maintained and operated in a manner to prevent hot surfaces, sparks or any other heat sources from igniting grasses, brush or other highly combustible material. (Mitigation Measure HAZ-3)
4. In accordance with Section 41.7 of the Lake County Zoning Ordinance, all uses involving the use or storage of combustible, explosive, caustic or otherwise hazardous materials shall comply with all applicable local, state and federal safety standards and shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate firefighting and fire suppression equipment.
5. All equipment shall be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. Hazardous materials and contaminated soil shall be stored, transported, and disposed of consistent with applicable local, state and federal regulations.
6. No hazardous waste shall be disposed of on-site without review or permits from Environmental Health Department, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.
7. The storage of potentially hazardous materials shall be located at least 100 feet from any existing water well. These materials shall not be allowed to leak onto the ground or contaminate surface waters. Collected hazardous or toxic materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such materials.
8. Brush shall be cut and removed and grasses shall be mowed in the staging areas.
9. Any spills of oils, fluids, fuel, concrete, or other hazardous construction material shall be immediately cleaned up. All equipment and materials shall be stored in the staging areas away from the creek; vehicles and equipment shall receive proper and timely maintenance.

10. **Prior to operation (if applicable)**, the permit holder shall obtain all necessary permits from the California Department of Toxic Substance Control. The permit holder shall submit a copy of said permit to the Community Development Department. For further information, please contact Gavin McCreary the California Department of toxic Substance Control at gavin.mccreary@dtsc.ca.gov.

H. HYDROLOGY & WATER QUALITY:

1. Prior to operation, the applicant shall obtain all necessary Federal, State and local agency permits and shall submit a copy of said permit(s) to the Community Development Department within 30 days of obtaining the permit(s). (*Mitigation Measure HYD-1*)
2. **Prior to issuance of any permits, Engineered Storm-Water Management and Drainage Plans and Calculations**, including an Operation and Maintenance Plan for the detention basin shall be submitted to the Lake County Water Resources Department for review and approval. The detention basin shall be maintained for the life of the project.
 - *All new construction shall incorporate Best Management Practices (BMP's) to the maximum extent practicable to prevent or reduce discharge of all construction or post construction pollutants into the County storm drainage system and Clear Lake. BMP's include scheduling of activities, temporary erosion and sediment control, operation and maintenance procedures and other measures in accordance with Chapter 29 and 30 of the Lake County Code.*

I. NOISE:

1. All construction activities including engine warm-up shall be limited to Monday Through Friday, between the hours of 7:00 a.m. and 7:00 p.m. to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels. Contractors shall implement noise-reducing measures during construction when occupied residences or other sensitive receptors are located within 500 feet. (*Mitigation Measure NOI-1*)
2. The Project shall comply with the noise standards identified in Section 41.11 of the Zoning Ordinance, including, but not limited to: maximum non-construction project-related noise levels shall not exceed: (a) 55 dBA between the hours of 7:00 a.m. to 10:00 p.m. and 45 dBA between the hours of 10:00 p.m. to 7:00 a.m. adjacent to residential districts; and (b) 60 dBA between the hours of 7:00 a.m. to 10:00 p.m. and 55 dBA between the hours of 10:00 p.m. to 7:00 a.m. adjacent to commercial districts at the property lines as outlined in Table 11.1. Should the Project exceed these noise standards during construction or operational phases, noise-generating activities shall cease until noise attenuation measures are implemented such that the Project is compliant with noise standards. (*Mitigation Measure NOI-1*)
3. If the Community Development Department receives substantial noise complaints, the permit holder shall have an Acoustical (Noise) Analysis performed by a qualified professional. Said study shall include mitigation measures to reduce such sounds to acceptable levels and to conform to all Federal, State and local agency requirements.
4. No use shall generate ground vibration which is perceptible without instruments beyond the lot line. Ground vibrations caused by motor vehicles, aircraft, temporary construction work, or agricultural equipment are exempt from these standards.
5. Devices which generate electromagnetic interference shall be so operated as not to cause interference with any activity carried on beyond the boundary line of the property upon which the device is located. Public utilities shall comply with all applicable state and federal regulations.

J. TRANSPORTATION AND TRAFFIC:

1. **Prior to the issuance of building permits**, the permit holder shall obtain all necessary encroachments permits from the Department of Transportation (Caltrans) and/or the Lake County Department of Public Works regarding road improvements, development, and/or any work within a right-of-way. The applicant shall submit a copy of said permit to the Community Development Department within thirty (30) days of obtaining such permit.
2. **Prior to operations**, the permit holder shall meet the following parking requirements pursuant to Article 46 (Parking) of the Lake County Zoning Ordinance:
 - The permit holder shall have a minimum of one (1) parking space per six hundred square feet of floor area or one space for each employee on the shift having the largest number of employees. Said spaces shall be a minimum of nine (9) feet in width and twenty (20) feet in length.
 - The permit holder shall have a minimum of one (1) accessible complaint parking space per forty (40) parking spaces. Said space(s) shall be a minimum of fourteen (14) feet in width and twenty (20) feet in width.
3. Gates shall not be constructed across driveways and/or access roads that are used by neighboring properties or the general public. Gates constructed across public access easements are subject to removal per State Street and Highway Codes. A knox box is required on all gated entrances.

K. WILDFIRE:

1. **Prior to occupancy**, new electrical service on the subject parcel shall be sited and maintained to avoid impact by falling trees, overgrown vegetation or other potential sources of ignition that could increase fire risk. (*Mitigation Measure FIRE-1*)

L. MITIGATION MONITORING AND EXPIRATION:

1. The permit holder shall permit the County of Lake or representative(s) or designee(s) to make periodic and/or annual inspections at any reasonable time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.
2. This permit may be revoked if the use for which the permit was granted is conducted as to be detrimental to the public health, safety, or welfare or as to be a nuisance. This permit shall be valid until it expires or is revoked pursuant to the terms of this permit and/or Chapter 21 of the Lake County Code.
3. **Prior to operation**, the permit holder shall pay the *Annual Compliance Monitoring Fee* of \$760.00 to the Community Development Department until all conditions of approval are met.
4. **Prior to operation**, the permit holder shall submit a summary response in writing establishing compliance with the approved conditions of approval, including dates of compliance and referencing documents and/or other evidence of compliance to the Community Development Department for review and approval, including scheduling an inspection with the Community Development Department to ensure all conditions of approval have been met.
5. This permit shall be valid for an indefinite period of time unless it expires or is revoked pursuant to the terms of this permit and/or Chapter 21 of the Lake County Code.

Scott DeLeon
Interim Community Development Director

Prepared by: MR

By: _____
Danae LoDolce, Office Assistant III

Acceptance

I have read and understand the foregoing Conditionals of Approval and agree to each and every term and condition thereof.

Date: _____

Signature of applicant or authorized agent

Printed name of applicant or authorized agent