



## COUNTY OF LAKE

### COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

Telephone 707/263-2221 FAX 707/263-2225

**Item # 1**

**9:05 AM**

**April 23, 2020**

### **STAFF REPORT REVISED (Continued from 4/9/2020)**

**TO:** Planning Commission

**FROM:** **Scott DeLeon**, Interim Community Development Director  
Mark Roberts, Principal Planner

**DATE:** **February 24, 2020**

**SUBJECT:** Major Use Permit, UP 19-05  
Initial Study, IS 19-09

### **Supervisor District Five (5)**

**ATTACHMENTS:**

1. Vicinity Map
2. Project Description Packet
3. Proposed Site Plans and Conditions of Approval
4. Initial Study, IS 19-09
5. Agency Comments/Concerns
6. Public Comments/Concerns

### **I. PROJECT SUMMARY**

The applicant is requesting approval of a Major Use Permit to allow for the development of a small-scale bioenergy production facility using the Artis System. This system has no open flame components and is a sealed system which uses programmable electric heaters to achieve optimal temperatures.

Once the biomass enters the system, the biomass is then heated to a level that reduces the biomass to a gas known as Syngas and a solid byproduct known as Biochar. The core of the system is the proprietary hybrid pyrolysis and gasification unit that includes a configurable system controller, feed delivery management, feed lock hopper and gas management. The system is able to be programmed to introduce a controlled amount of steam depending on the moisture content of the Syngas or the moisture content of the feedstock. Steam may be employed to assist in the conversion of Biochar to Syngas if the user prefers more Syngas and less, or no Biochar. The Syngas is processed through a series of heat exchangers, hydrocarbon crackers and particulate filters before being delivered to the generator.

The proposed use would occur within a 2,000-square enclosed structure on a 40' x 50' six-inch thick concrete pad. The sides of the metal building will be 10' high and there will be two 18'-wide roll-up doors and one pedestrian entrance. The roll-up doors will be located on the west and east sides of the building; the pedestrian entrance on the east side. An "A" frame metal roof with a centerline apex of 16' will cover the building and pad. The roof will be supported by steel pillars.

In addition to the proposed structure above, there would be a storage area approximately 28,000 square feet in size. The storage area functions will be to process and house the production plant's feedstock. The surface of the storage area will be a 6" pad of wood chips. This is intended to ensure that soil erosion will not occur in the winter season as well as ensuring that rock and related material will not be carried to the production plant.

The plant will operate 24 hours per day, seven days per week except when it is shut down for scheduled maintenance on average one day per week. The operation is highly automated with system safeguards in place to shut the operation down in the event of a malfunction. The plan calls for a full-time employee working 5.5 hours per day, seven days a week on a split-shift schedule. The operator will be responsible for chipping feedstock, feeding the hopper, packaging biochar and monitoring the plant's operation.

Construction is estimated to take approximately 8-12 weeks.

## **II. PROJECT DESCRIPTION**

Applicant: Thomas Jordan, Tribal Administrator

Owner: Scotts Valley Band of Pomo Indians

Location: 7130 Red Hills Rd, Kelseyville, CA 95451.

Parcel Number: 009-021-07

Parcel Size: Approximately 34.58 acres

General Plan Designation: Rural Residential and Community Commercial

Zoning Designation: Rural Residential (24.5± ac.); Highway Commercial (10.5± ac.), Scenic Combining District, Design Review Combining District

Flood Zone: Not within a known flood zone

Fire Zone: High Fire Severity Zone

Earthquake Failure Zones: Not within a known fault zone

Dam Failure Inundation Zone: Not within a dam failure zone

### **III. PROJECT SETTING**

Existing Uses and Improvements: The majority of the 34.58±-acre property is occupied by a fallow walnut orchard, comprising approximately 86.18 percent of the land area. Approximately 1.55 acres (4.5 percent) is occupied by Interior Live Oak Woodland and 1.48± acres (4.28 percent) is occupied by Mixed Chaparral, comprised primarily of manzanita, madrone, scrub oak, and buck brush. The remaining 1.75 acres± (5.06 percent) is developed. Existing development on the property includes two single-family residences; one travel trailer; a 40-stall, 14,000-square foot (sf), ADA-compliant chip-sealed parking lot; 180-ft long, 18-ft wide gravel roadway through the property; three low-profile street lights adjacent to the internal roadway; a well and pumps; (2) 2,000-gallon water storage tanks; an accessible public restroom; two septic disposal systems; and two small solar collection grids serving the two residences. In the northeast portion of the property is a fire pit surrounded by a dance circle with dressing rooms and outdoor furniture used for tribal gatherings. The property is surrounded on all sides by three-foot high chain link fencing. The residential units are rented to tribal members; the parking lot and public restrooms are used by tribal members visiting the property.

#### Surrounding Zoning and Land Uses:

- North: Property to the north is zoned Rural Residential (RR), Highway Commercial (CH) and Community Commercial (C2). Parcel sizes are approximately 134 acres and 19 acres. Land uses to the north are commercial, and are located on the north side of State Route 29 (SR 29). The primary development is Kit's Corner grocery and gasoline station.
- West: Property to the west is zoned C2 and RR. Parcels are approximately eleven to 18 acres in size. Land uses to the west are predominantly agriculture (vineyards and orchards).
- South: Property to the south consists of parcels 173 and 466 acres in size, zoned Agriculture (A).
- East: Property to the east includes mini storage units on 7.66 acres zoned Planned Development Commercial (PDC), and a 5.43-acre parcel zoned RR.

Topography: The Project Site is relatively flat to gently sloping, generally following the contours of the grades established by SR 29 and Red Hills Road.

#### Soils:

According to the USDA Soil Survey, the shrink-swell potential for the Project soil type is moderate, and is not considered to be expansive. The proposed Project would therefore not increase risks to life or property as a result of expansive soil.

Water Supply: Onsite Wells

Sewage Disposal: Onsite Waste Management Disposal Systems (Septic)

Fire Protection: Kelseyville Fire Protection District/Calfire

#### **IV. PROJECT ANALYSIS**

##### **General Plan Conformance**

The land use designation on this site is Rural Residential and Community Commercial:

Rural Residential: This land use category is designed to provide single-family residential development in a semirural setting with small scale agriculture activities. This land use category is designed to act as a buffer between the urban residential development and the agricultural area of the County.

Community Commercial: This land use category is to provide a full range of commercial retail and service commercial establishments serving multiple neighborhoods or the entire community.

##### **County of Lake General Plan (2008) - Chapter 3.8 9 Industrial Development**

Goal LU -5: To designate adequate land for and promote development of industrial uses to meet the present and future needs of the Lake County residents for jobs and able to maintain economic viability.

Policy LU 5.1 (Industrial Development): “The County shall encourage a wide range of industrial development activities in appropriate locations to promote economic development, employment opportunities and provide a sound tax base.

**General Plan Response:** *The proposed commercial/industrial use is located in an appropriately zoned area of the County as the surrounding parcels range in size from approximately five (5) acres to greater than 400 acres in size and are developed with commercial/agricultural uses, and ranchette style single family dwellings. The proposed use would create employment opportunities in the form of one full time position to maintain a 24-hour operation and help improve a tax base through commercial improvements on the project parcel.*

##### **Kelseyville Area Plan**

The purpose of the Kelseyville Area Plan is to provide guidance regarding the long-term growth and development of the Kelseyville, Finley and Big Valley areas and other surrounding rural lands. The Area Plan is a tool by which greater planning detail is provided for the Kelseyville area.

Objective 5.1(b): “To designate appropriate amounts of land for uses to accommodate projected growth rates in the Kelseyville area for the next 20 years. The land use map

shall designate sufficient lands to accommodate a balance of land uses subject to environmental and public service constraints.

Policy 5.1b-1: “A high priority shall be given to providing services and employment opportunities locally in the Kelseyville Planning Area in order to boost economic development and reduce travel time”.

**Kelseyville Area Plan Response:** *The proposed commercial/industrial use is located in an appropriately zoned area of the County as the surrounding parcels range in size from approximately five (5) acres to greater than 400 acres in size and are developed with commercial/agricultural uses, and ranchette style single family dwellings. The proposed use would create employment opportunities in the form of one full time position to maintain a 24-hour operation and help improve a tax base of the Kelseyville Area through commercial improvements on the project parcel.*

*This project is consistent with the Lake County General Plan, Kelseyville Area Plan and the Lake County Zoning Ordinance as a “Power Generation Facility” is a permitted use in the “RR” Rural Residential upon issuance Major Use Permit pursuant to Article 27, Table B(x) of the Lake County Zoning Ordinance. On September 28, 2016 the Scotts Valley Band of Pomo Indians submitted a major use permit to the Community Development for review and approval.*

**Zoning Ordinance Conformance.**

The proposal must meet the applicable requirements found within Lake County Zoning Ordinance for the following Articles:

Article 8 – Rural “RR Residential Zoning District: The purpose of Rural Residential is to provide single-family residential development in a semi-rural setting along with limited agriculture.

- **Response:** Pursuant to Article 27 of the Lake County Zoning Ordinance, there is a variety of commercial and/or industrial uses permitted in the “RR” Zoning District upon securing a minor and/or major use permit, including a “Power Generation facility” [Article 27, Table B(x)].

Article 53 Design “DR” Review Combining District: The purpose of the Design Review Combining District is to aesthetic compatibility between uses, protect and enhance property values, protect scenic qualities, and promote community character through use of community design manuals.

- **Response:** *The proposed commercial/industrial use is located in an appropriately zoned area of the County as the surrounding parcels range in size from approximately five (5) acres to greater than 400 acres in size and are developed with commercial/agricultural uses, and ranchette style single family dwellings. Additionally, the proposed infrastructure would be designed and be situated in manner, including the use of earth tones colors to help minimize the visual impacts with using the natural topography.*

## **V. CONDITIONS OF APPROVAL**

The applicant shall adhere to all conditions of approval. (*Refer to Attachment 3 for details*)

## **VI. ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of their actions. The Community Development Department has reviewed and approved an Environmental Analysis (Initial Study) for Red Hills BioEnergy (Scotts Valley Band of Pomo Indians) that was prepared by Julie Price an Environmental Specialist/Planner with Crawford & Associates, Inc. All potential environmental impacts have been reduced to less than significant with the incorporated Mitigation Measures and Conditions of Approval. The following areas were identified as having potential environmental impacts: (*Refer to Attachment 4 for details*)

### **Aesthetics (AES):**

The project is located off S. State Highway 29 in Kelseyville. Even though the project is adjacent to S. State Highway 29, the proposed project would be partially obscured by woody vegetation, including walnut, oak and pine trees. Gaps in vegetation exist near the property entrance where the Project would be the most visible to motorists. Additionally, the structure housing the production plant would be located approximately 140 feet from the west edge of the roadway. The chipping and grinding area would be located on the east side of the building, partially shielded from public view. Due to the 140-ft setback between the Project development and Red Hills Road, the small scale of the building and relatively low height of the roof, the lack of recreational use of the road, and the brief period that the plant would be visible to motorists, the Project is not expected to visually degrade the area. **Therefore, the implementation of the mitigation measures in Section I (Aesthetics) of Initial Study, IS 19-09 located on pages 9 through 10 would reduce any potential environmental impacts to less than significant.**

- **AES-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.*
- **AES-2:** *Existing healthy, non-hazardous vegetation that provides screening to the Project Site along the western boundary shall be maintained.*
- **AES-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](http://www.darksky.org)) and provisions of Section 21.48 of the Zoning Ordinance. Security lighting shall be motion activated.*

### **Air Quality (AIR):**

The Project would result in temporary emissions during the 8-12-week construction period. Site preparation will include the clearing and chipping of 25 trees, and earth moving of 2,000± square feet to achieve final grades for the production pad. These activities have the potential to generate fugitive dust for a short period of time until the site is stabilized. If trees are burned, smoke can also contribute particulate emissions. The applicant plans on

chipping the cleared trees and using them as the storage area base for dust and erosion control and/or as feedstock for the plant; the trees are not proposed to be open-burned. The applicant plans to use water dispersal as the primary method of dust control during construction, using either on-site water and/or application by water truck. Internal roadways are currently paved; the proposed new travel lanes will be surfaced with 1/2-inch gravel or with a new composite material consisting of dirt and cement. Stabilized road surfaces will minimize dust over the long term. **Therefore, the implementation of the mitigation measures in Section III (Air Quality) of Initial Study, IS 19-09 located on pages 11 through 13 would reduce any potential environmental impacts to less than significant.**

- *AIR-1: Prior to the commencement of construction, applicant shall submit to the Lake County Air Quality Management District (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 diesel). 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.*
- *AIR-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.*
- *AIR-3: All vegetation removed during site development shall be chipped and spread for ground cover, erosion control and/or biomass feedstock. The burning of vegetation, construction debris, or waste material is prohibited.*
- *AIR-4: 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.*

### **Cultural & Tribal Resources (CUL):**

An Archaeological Reassessment of the subject property, dated September 9, 2004, was provided by Northwestern Informational Center (NWIC). Included in the NWIC documents is a letter written by the State Office of Historic Preservation, which states, "A record search conducted by the Northwest Information Center at Sonoma State University identified no archeological properties located within the project APE [Area of Potential Effects]. A pedestrian survey of the project area conducted by qualified archeologists in January 2001 also provided no evidence of historical or prehistoric archeological properties." The letter further states, "Our review of the submitted HPSR [Historic Property Survey Report] leads us to concur with FHWA's [Federal Highway

Administration] determination that the property at 7130 Red Hills Road is not eligible for inclusion on the NRHP [National Register of Historic Places] under any of the criteria established by 36 CFR 60.4.” The residence was therefore not considered to be a significant historical resource and has since been demolished and removed from the site due to its state of disrepair. **Therefore, the implementation of the mitigation measures in Section IV (Cultural & Tribal Resources) of Initial Study, IS 19-09 located on pages 15 through 16 would reduce any potential environmental impacts to less than significant.**

- *CUL-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.*
- *CUL-2: A cultural resource monitor shall be present during ground disturbance activities.*

#### **Geology and Soils (GEO):**

Project grading will involve the moving of approximately 45 cubic yards (cubic yards) of dirt/soil to create a 2,000-sf building pad and to level the 28,000-sf outdoor storage area. The applicant estimates that the volume of cut will be equivalent to the volume of fill, resulting in no need to import or export soil. The building will be equipped with gutters and downspouts that will connect to underground drainage pipe that will outlet into the adjacent field where water will percolate into site soils. A rock energy dissipator will be installed at the pipe outlet to protect against scour. According to the applicant, site soils experience a high infiltration rate and storm-water discharge from the facility is not anticipated. Due to the scope of the grading activity, the moderate erosion hazard rating of site soils, and the lack of sensitive environmental resources on the Project Site, grading associated with the Project is exempt from a grading permit. Grading is, however, subject to the grading design standards outlined in the County Grading Ordinance. **Therefore, the implementation of the mitigation measures in Section VII (Geology and Soils) of Initial Study, IS 19-09 located on pages 15 through 16 would reduce any potential environmental impacts to less than significant.**

- *GEO-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.*

- *GEO-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.*
- *GEO-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.*
- *GEO-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.*

#### **Hazards and Hazardous Materials (HAZ):**

Hazardous materials associated with the Project include the use of diesel fuel and the use and storage of cleaning solvents. The loader and chipper will be fueled by a mobile fueling service. Solvents in containers of two gallons or less will be stored in a locked fireproof cabinet. The Project does not involve the routine disposal of hazardous materials. The use and storage of hazardous materials creates the opportunity for accidental releases to occur, requiring measures to prevent potential releases and to take proper action to contain, clean up and notify authorities should a release occur.

**Therefore, the implementation of the mitigation measures in Section IV (Hazards and Hazardous Materials) of Initial Study, IS 19-09 located on pages 15 through 16 would reduce any potential environmental impacts to less than significant.**

- *HAZ-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.*
- *HAZ-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.*
- *HAZ-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.*

- *HAZ-4: 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.*

#### **Hydrology and Water Quality (HYD):**

Construction of the proposed project will not generate any wastewater; therefore, there are no waste discharge requirements associated with the Project. Grading activities in preparation for the building pad have the potential to cause erosion; however, Project drainage is designed to flow as sheet flow into well-drained soils downslope of the site. Gutters and downspouts installed on the building will be connected to an underground drainage pipe that will extend downgradient 20 feet beyond the lane that will encircle the building. Due to the significant acreage of land downslope of the Project Site and the well-drained soils designated by the USDA and confirmed by the applicant, sediment generated from the Project is expected to settle out on the property and not be discharged off site.

Project grading of one or more acres requires compliance with the State Water Resources Control Board (SWRCB) General Permit for Discharges Associated with Construction Activities (Construction Storm-water Permit). The area proposed for grading is 2,000 square feet for the plant production pad and some leveling in the 28,000-sf storage area; therefore, the Project does not qualify for the Construction Storm-water Permit. However, the chipping activity may require coverage under the SWRCB General Permit for Discharges Associated with Industrial Activities (Industrial Storm-water Permit). Coverage under the Industrial Storm-water Permit would require development of a Storm Water Pollution Prevention Plan (SWPPP) and implementation of a comprehensive storm-water monitoring program for the facility. HYD-1 requires the applicant to obtain any necessary permits, which would include a permit from the SWRCB if so required, in order to protect water quality from project-related impacts.

**Therefore, the implementation of the mitigation measures in Section VII (Geology and Soil) located on pages 17-18 and Section IX (Hazards & Hazardous Materials) of Initial Study, IS 19-09 located on pages 19-22 would reduce any potential environmental impacts to less than significant.**

GEO-1 through GEO-4 and HAZ-1 and HAZ-2, above, will mitigate impacts to water quality as a result of hazardous material use and storage. **Less Than Significant with Mitigation Incorporated.**

- *HYD-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).*

#### **Noise (NOI):**

Short-term noise levels would be increased during the construction phase of the Project. Construction-related noise may involve the use of a tractor/grader, compactor, water truck, and trucks delivering rock and concrete. Construction noise would occur over a period of approximately 8-12 weeks. Once Project construction is completed, noise associated with the operation would be generated by truck deliveries of feedstock,

chipping equipment, and generators operating the bioenergy system on the west side of the building. The operation plan assumes 2 – 5 trucks daily delivering both chipped and unchipped material. To prepare feedstock, unchipped material would be run through a diesel or electric-powered chipper and then through an electric-powered hammermill before transfer to the hopper or stockpiled for later use. It is anticipated that material will be processed for no longer than 2-3 hours per day, five days per week, with the front-end loader operating 6-8 hours per day. The biochar is stored until five tons is accumulated, at which time it would be shipped to a soil amendment wholesaler located in the Central Valley. Out shipments of biochar would therefore be significantly less frequent than deliveries. Generator noise would be attenuated by full aluminum weather protection and superior sound attenuation for specific low noise applications, including a critical grade muffler. **Therefore, the implementation of the mitigation measures in Section XIII (Noise) of Initial Study, IS 19-07 located on pages 24 would reduce any potential environmental impacts to less than significant.**

- *NOI-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.*
- *NOI -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*

The Community Development Department has received concerns from the general public regarding the potential noise issues associated with the proposed use. With the incorporated Mitigation Measures above, potential noise concerns would be less than significant. In addition to the above measures, staff is recommending the following Conditions of Approval.

- *Condition of Approval I3: 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.*
- *Condition of Approval I4: 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.*

- *Condition of Approval 15: 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.*

**Wildfire (FIRE):**

The project site is located in a High Severity Zone and equipment and vehicles have the potential to ignite wildland fires during land clearing and grading activities. Additionally, Infrastructure exists on the property, including roads, water storage tanks and electrical service which also pose fire risk. The proposed operation will require electrical service, which will be delivered from a PG&E utility pole located on Red Hills Road. An overhead line will connect to a utility pole that will be situated on the west side of the parcel. **Therefore, the implementation of the mitigation measures in Section XX (Wildfire) of Initial Study, IS 19-09 located on pages 24 would reduce any potential environmental impacts to less than significant.**

- *FIRE-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.*

**VII. FINDINGS FOR APPROVAL – MAJOR USE PERMIT (ARTICLE 51, SECTION 51.3(A)).**

**Staff is recommending Approval of the Major Use Permit, UP 19-05.**

The Review Authority may only approve or conditionally approve a major use permit if all of the following findings are made:

1. **That the establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County**

*A “Power Generation facility” is a permitted use in the “RR” Rural Residential upon issuance Major Use Permit pursuant to Article 27, Table B(x). Additionally, the applicant shall obtain all necessary federal, State and local agency requirements prior to operation and the Community Development Department has incorporated Conditions of Approval to ensure compliance and to help protect the health, safety and overall welfare of the general public.*

2. **That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.**

*The project site is adequate in size and shape as it is approximately 34.5 acres in size and is relatively flat to gently sloping, generally following the contours of the*

*grades established by SR 29 and Red Hills Road.*

3. **That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use. (Ord. No. 2128, 1/14/1993)**

The streets, highways, and pedestrian facilities are reasonably adequate to safely accommodate the project site as it is accessed from Red Hills Road, (County maintained roadway) via a private driveway. The private access way is approximately 900± feet south of the intersection of Red Hills Road and State Highway 29.

4. **That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project. (Ord. No. 1749, 7/7/1988)**

The project site has existing onsite well(s) and onsite waste management systems (septic), as permitted through the Lake County Environmental Health Department. Additionally, the project parcel has adequate emergency service protection through the Lake County Sheriff's Office, California Highway Patrol (CHP) and the Kelseyville Fire Protection District/Calfire.

5. **That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.**

*This project is consistent with the Lake County General Plan, Kelseyville Area Plan and the Lake County Zoning Ordinance as a "Power Generation facility" is a permitted use in the "RR" Rural Residential upon issuance Major Use Permit pursuant to Article 27, Table B(x). Additionally, Conditions of Approval are in place to ensure continuous compliance.*

6. **That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis. (Ord. No. 2128, 1/14/1993).**

*There are no known violations of Chapters 5, 17, 21, 23 or 26 of the Lake County Code at this time.*

#### **VIII. RECOMMENDATIONS:**

**Staff recommends the Planning Commission take the following actions:**

- A. **Adopt a Mitigated Negative Declaration based on Initial Study, IS 19-09 for Major Use Permit, UP 19-05 with the following findings:**

1. Potential environmental impacts related to Aesthetics have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
2. Potential environmental impacts related to Air Quality have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
3. Potential environmental impacts related to Geology and Soils have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
4. Potential environmental impacts related to Cultural & Tribal Resources have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
5. Potential environmental impacts related to Hazards and Hazardous Materials have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
6. Potential environmental impacts related to Hydrology and Water Quality have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
7. Potential environmental impacts related to Noise have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
8. Potential environmental impacts related to Wildfire have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
9. This project is consistent with land uses in the vicinity.
10. This project is consistent with the Lake County General Plan, Kelseyville Area Plan and Zoning Ordinance.
11. As mitigated, this project will not result in any significant adverse environmental impacts.

**B. Approve Major Use Permit, UP 19-05 with the following findings:**

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.

2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.
3. That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use.
4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.
5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.
6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and.

#### **Sample Motions:**

##### **Mitigated Negative Declaration**

I move that the Planning Commission find on the basis of the Initial Study No. 19-09, prepared by the Planning Division, that the Major Use Permit, UP 19-05, as applied for by Scotts Valley Band of Pomo Indians, will not have a significant effect on the environment and therefore a mitigated negative declaration shall be issued with the findings listed in the Staff Report dated February 24, 2020.

##### **Major Use Permit**

I move that the Planning Commission find that the Major Use Permit, UP 19-05 applied for by Scotts Valley Band of Pomo Indians, on property located at 7130 Red Hills Road, Kelseyville, CA 95451, APN: 009-021-07 does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and grant the Major Use Permit subject to the conditions and with the findings listed in the Staff Report dated February 24, 2020.

**NOTE:** *The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination*

Reviewed By: