

**STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
PLANNING COMMISSION**

Resolution  
No. 2018-006

**A resolution approving the Mariposa Biomass Project Conditional Use Permit (CUP) No. 2017-117 with findings, conditions and mitigation measures, approving the Subsequent Mitigated Negative Declaration as adequate and complete (SCH 2018011038). APNs 012-050-066 and 012-050-067, Mariposa Biomass Project-Jay Johnson, applicant.**

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WHEREAS, an application for a Conditional Use Permit was received on June 23, 2017, from the Mariposa Biomass Project, Jay Johnson, applicant, for a project located within the Mariposa Industrial Park at 5673 and 5686 Copper Leaf Drive, Mariposa, CA, Mariposa County, also known as Assessor Parcel Number's 012-050-066 and 012-050-067; and

WHEREAS, the application proposed a 2.4 MW Bioenergy Facility with support buildings, parking, access and a woodchip storage yard; and

WHEREAS the Planning Department circulated the applications among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS, an Initial Study and Subsequent Mitigated Negative Declaration, State Clearinghouse Number (SCH) 2018011038 were prepared for the Mariposa Biomass Project Pursuant to the California Environmental Quality Act; and

WHEREAS, the Mariposa Biomass Project Notice of Intent to Adopt Subsequent Mitigated Negative Declaration was published January 23, 2018; and

WHEREAS, a Staff Report, Subsequent Mitigated Negative Declaration, public comments received, response to comments and revisions, findings, conditions and environmental determination were prepared pursuant to the California Government Code, Mariposa County Code, PDZ 87-1, General Plan, California Environmental Quality Act, and local administrative procedures; and

WHEREAS, a duly noticed Planning Commission public hearing for the project and Subsequent Mitigated Negative Declaration was scheduled and held on the 23<sup>rd</sup> day of February 2018; and

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered staff's recommendations, all of the information in the public record, including the Staff Report, Initial Study and Subsequent Mitigated Negative Declaration, project findings, mitigation measures, conditions of approval, testimony presented by the public concerning the application, and the comments of the applicant; and

NOW THEREFORE, BE IT RESOLVED THAT, the Planning Commission of the County of Mariposa does hereby approve the Mariposa Biomass Project, Conditional Use Permit (CUP) No. 2017-117 by:

- Approving the Subsequent Mitigated Negative Declaration as adequate and complete (SCH 2018011038);
- Approving the project application with the recommended findings and conditions.

BE IT THEREFORE FINALLY RESOLVED THAT this action is recommended based upon the Mariposa Biomass Project:

- CUP No. 2014-164 findings, included as Exhibit 1
- Conditions and mitigation measures, included as Exhibit 2

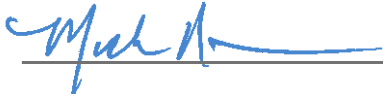
ON MOTION BY Commissioner McCamman, seconded by Commissioner Kennec, this resolution is duly passed and adopted this 23rd day of February 2018 by the following vote:

AYES: Herman, Kennec, McCamman,

NOES: Becker

EXCUSED: Kehoe

ABSTAIN:

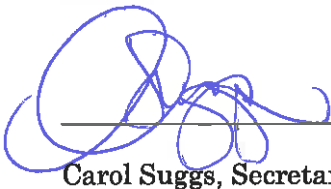



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Mick Herman, Chair

Mariposa County Planning Commission

Attest:




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Carol Suggs, Secretary

Mariposa County Planning Commission

***EXHIBIT 1***

***CONDITIONAL USE PERMIT NO. 2017-117 FINDINGS***

**Project Findings for CUP 2017-117**

(Findings pursuant to PDZ87-1 and Conditional Use Permit §17.112.040., Mariposa County Zoning Code)

**CUP Finding 1:** That adequate open space is provided.

**Evidence:** The project site is comprised of a 2.86 acre parcel (Parcel 4) and a 2.41 acre parcel (Parcel 3) totaling 5.27 acres. The project proposes less than 10,000 square feet of new structures resulting in approximately 4% of the lot area covered with the new structures. PDZ87-1 Lot Area Coverage maximum is 25% net lot area by buildings, sheds, barns or similar structures. The project lot coverage is far below the 25% lot area coverages allowed by PDZ 87-1 and therefore there is adequate open space being provided by the project.

**CUP Finding 2:** That the site is physically suited for the proposed development;

**Evidence:** The proposed development is on two of a very limited number of parcels in the County zoned for industrial uses. The project parcels are located within the Mariposa Industrial Park that was approved by the County in 1987 as Planned Development Zone PDZ 87-1 where it was determined that the site was suitable for industrial uses provided the development standards of PDZ 87-1 are met. The Biomass project development meets applicable PDZ 87-1 Section III Improvement and Building Standards. The project proposes new structures that would result in lot coverage of 4% of the total land area (5.27 acres), being well below the PDZ 87-1 allowance of up to 25%.

Project Parcel 4 is a previously disturbed site that has a graded building pad and access driveway where the proposed Mariposa Biomass facility structures, buildings and employee parking are proposed. Parcel 3 is undeveloped and is proposed for wood chip storage, truck scale, turnaround and internal material transport road. The development has existing physical access that requires minimal improvements to support the use. The development proposes minimal grading and disturbance where over 20 % more land area could be used for structures as allowed by the PDZ 87-1 development standards.

**CUP Finding 3:** That adequate provisions have been made for sewage disposal and handling of solid waste

**Evidence:** The Project's wastewater treatment needs were adequately analyzed in the

Project Initial Study including review by the Health Department. The current septic system on Parcel 4 has sufficient capacity for the expected 8-10 employees, and room for up to ten more users. There is also the additional septic easement that could be used in the future, that is being moved from Parcel 3 to Parcel 4. The project implementation will have a less than significant impact on existing septic facilities.

The Project Initial Study evaluated the solid waste outputs and the project will comply with all solid waste laws. Two disposal outputs, non-hazardous ash and sludge will be taken to the Mariposa County Landfill or an appropriately permitted waste facility.

Conditions of approval require and that an adequate waste handling plan be in place to serve the project site prior to operation. Enforcement of State Law and County Health standards will insure that sewage disposal and solid waste disposal are adequately handled and will not generate a health hazard.

**CUP Finding 4:** The proposed development will have adequate potable water for public use and fire protection.

**Evidence:** The Project proposes to use an existing well (located offsite on Parcel 2) for water. The Initial Study evaluated the use of the water well to serve the water demand of the project that included pump test, draw down testing and potential impacts to offsite wells. The Initial Study found that there is sufficient water to serve the project demand for all facilities and operations.

Conditions of approval require verification from the Health Department and State for compliance with applicable State Drinking Water standards and Division of Drinking Water requirements for the water system permitting. Compliance with those requirements is sufficient to address any potential impacts to less than significant levels for the water supply.

In order to provide for fire protection onsite, the project includes a 110,000 gallon fire water storage tank located in the southwest corner of parcel 4. Hydrants will be located as required by the Fire Department prior to final inspection. Design plans shall be required and approved prior to building permit issuance.

**CUP Finding 5:** The project complies with all standard and special setback requirements and appropriate buffers have been provided for adjacent land uses.

**Evidence:** The project meets all applicable PDZ 87-1 Mariposa Industrial Park section III. Improvement and Building Standards including lot coverage, height, landscaping, security lighting, fencing and screening lot access and setback requirements. The project proposes to retain existing trees and shrubs as is feasible. The Initial Study for the project evaluated visual impacts and noise impacts and through the application of conditions and mitigation found that the impacts at neighboring land uses to be less than significant. The Initial Study for the project layout maintains no build zones along

site water features. These special setbacks are required by project mitigation and conditions require adherence to these setbacks.

**CUP Finding 6:** That appropriate access is available or is proposed to the development.

**Evidence:** The project access is from State Highway 49, Gold Leaf Drive and Copper Leaf Drive. With application of required encroachment and roadway design improvements it can be found that the project will have adequate capacity for the additional traffic generated by the Mariposa Biomass Project. The project Initial Study was circulated and reviewed. Access improvements will be required to meet all applicable design standards established by Public Works and CALTRANS.

**CUP Finding 7:** That the proposed use is consistent with the policies and standards of the General Plan and any applicable specific plan.

**Evidence:** The project parcels are within the PDZ 87-1 Mariposa Industrial Park with a General Plan Land Use classification of Natural Resources, Expanded Mariposa Town Plan Study area. The General Plan Land Use Element 5.3.05 Natural Resources States:

*"The Board of Supervisors has determined that parcels within the Natural Resource Land Use Classification on the Land Use Diagram, the existing zoning assigned to that parcel, as of December 1, 2006, is consistent with the Natural Resources land use classification."*

PDZ 87-1 Mariposa Industrial Park zoning applicable to the Project site was assigned to the Project Parcels prior to December 1, 2006. The PDZ 87-1 zone allows for processing uses and the Project is therefore consistent with the Planned Development Zone and the General Plan.

There are no specific plans applicable to the project site.

**CUP Finding 8:** That the project as approved will not have a significant effect on the environment, or the significant impacts have been eliminated or substantially lessened, or determined that the significant effects are unavoidable and acceptable due to overriding concerns.

**Evidence:** An Initial Study and a Subsequent Mitigated Negative Declaration were prepared for the Mariposa Biomass Project, pursuant to California Environmental Quality Act (CEQA, California Public Resources Code, Section 21000, et seq.).

Approval of a project with significant impacts requires that findings be made by the lead agency pursuant to the California Environmental Quality Act (CEQA, California Public

Resources Code, Section 21000, et seq.), and State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3) Sections 15043, 15091, and 15093. CEQA Guidelines Section 15092(b) requires a finding that the significant impacts of a project are either: (1) mitigated to a less-than-significant level or (2) that the public benefits of a project outweigh the significant impacts (requires a Statement of Overriding Consideration).

The Mariposa Biomass Project Initial Study concluded that all project impacts would be mitigable to less than significant; the project would not result in significant and unavoidable impacts. The project CEQA findings and mitigation and monitoring program are incorporated herein by reference.

**CUP Finding 9:** 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, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the county

**Evidence:** This project proposes an industrial development directly adjacent to existing industrial uses. The Mariposa Industrial Park has been approved by the Board of Supervisors as an appropriate location for industrial activities and specific development standards have been incorporated into the Planned Development Zone to ensure that industrial activity is not detrimental to the neighborhood and County. Additionally, conditions of approval are recommended to ensure compliance with all standards of the PDZ. The Conditional Use Permit will establish written limits to the use and operation of the Mariposa Biomass Project. The Conditional Use Permit and project Initial Study will establish specific identified mitigation measures and conditions to address potential impacts the development may have on surrounding properties or properties in the community, including noise, light, traffic and outdoor activity (reducing impacts to a level of less than significant). Finally, this Conditional Use Permit will establish requirements for construction and ongoing operation of the Mariposa Biomass Project to insure no significant project impacts on persons residing or working in the neighborhood or in the community. There is a benefit to the health, safety, morals, comfort and general welfare of persons residing and working in the neighborhood to have established limits and mitigations such as will result from this project.

The Initial Study evaluated all potential environmental impacts of the proposed project and concluded that the project could occur with no significant environmental impacts based upon the implementation of adequate and feasible mitigation measures. These mitigation measures are incorporated into the project.

This Conditional Use Permit has been reviewed through a discretionary process, and there have been opportunities for public input on health, safety, morals, comfort and general welfare issues through the public process. All public input on these matters as well as input and recommendations from regulatory agencies with regulatory authority

over the project have been considered. The Planning Commission has considered the Initial Study for this project. Finally, the Planning Commission has considered the staff report, project findings, the recommended conditions, and the CEQA Findings of Fact and Mitigation Monitoring and Reporting program, establishing requirements to address:

- Protection of special status plant species
- Protection of special status animal species
- Protection of cultural resources
- Minimizing grading and grading impacts
- Protection of trees and vegetation
- Elimination of off-site noise impacts
- Elimination of off-site lighting impacts
- Limitation to hours and days of outside construction activities
- Implementation of air quality requirements, including odor controls
- Implementation of a noxious weed program
- Implementation of Fire and Hazard requirements and fire protection
- Implementation of Airport Overlay requirements
- Roadway and site maintenance
- Aesthetics

The Planning Commission finds that with mitigation and conditions, the continued maintenance and operation of the use as conditioned will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, or general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the county.

**PDZ 87-1 FINDING 10:** The project is consistent with all use and development standards of Planned Development Zone No. 87-1.

**EVIDENCE:** The project has been reviewed in accordance with all use and development standards established by Planned Development Zone No. 87-1.

The Biomass processing use fits into the following PDZ 87-1 uses as outlined in the following excerpts from PDZ 87-1 Mariposa Industrial Park Section:

*"VI. Use Standards, A. Permitted Uses:*

*... 3. Processing uses- to include, but not limited, to bottling plants, creameries, wineries, laboratories, tire retreading, and cleaning, laundry and dyeing plants.*

*... 7. Agricultural Product Processing*



*...12. Other- manufacturing, processing, treatment, fabrication or assembly uses similar to those enumerated above."*

*The project proposes an agriculture (forest) materials processing use and is similar to the other uses listed above and therefore a permitted use under PDZ-87-1*

PDZ 87-1 states:

*"...buildings shall not exceed 45 feet for any structure within the Mariposa Industrial Park. This standard shall not apply to radio/communication towers, power transmission towers or similar utility structures. Maximum allowable height for these types of structures is seventy-five feet. In no case shall these standards allow the construction of a building, tower or utility structure which encroaches into the approach zone established by the Mariposa County Airport Zone."*

The Project does not propose a building over 45 feet tall, although it does propose a 60 foot tall air exhaust stack (tower) that is a similar utility structure allowed by PDZ 87-1 height standards. The proposed 60 foot tall air exhaust stack does not exceed the 75 foot maximum height allowance for those types of utility structures.

The proposed air exhaust stack height of 60 feet does not penetrate the "imaginary conical surface" pursuant to the Airport Plans. The imaginary conical surface elevation directly above the proposed air exhaust stack location is 2532 feet. At the top of the proposed air exhaust stack of 60 feet, the elevation is 2454 feet. The top of the proposed air exhaust stack height is at an elevation of 2454 feet, being 78 feet below the imaginary conical surface elevation of 2532 feet and therefore in compliance with the Airport Plans and Airport Overlay District.

Additionally, the Project must also demonstrate Airport Plan compliance to the Public Works Director as a new facility within the Airport Overlay Zone. Project compliance with all Federal Aviation Administration (FAA) and State Division of Aeronautics requirements is required in addition to the Initial Study Analyses. Conditions of approval include requirements for verifications from the agencies and Public Works Department approval prior to grading and/or building permit issuance in order to determine that the Project plans meet all applicable Airport related requirements.

The project, upon compliance with all recommended mitigation and conditions of approval, is consistent with the applicable standards.



***EXHIBIT 2***  
***PROJECT CONDITIONS AND MITIGATION MEASURES***

**Conditional Use Permit No. 2017-117**

***General***

1. The Use Permit is approved for development and operation of the Mariposa Biomass plans dated January 19, 2018 (Staff Report Attachment B- Project Plans) and the project description as follows:
  - The construction of a 2.4 MW community based bioenergy facility and woodchip storage yard.
  - The facility will include several new structures including a gasification plant, engine generator enclosure, fire water tank, ash storage bin, feed system, electrical equipment enclosure and control room (8,600 square feet of new structures).
  - Feedstock storage is proposed to occur on Parcel 3, while the biomass facilities will be located on Parcel 4.
  - Access is proposed from Highway 49 No. to Gold Leaf Road, onto Copper Leaf Drive and driveway encroachments on Copper Leaf Drive.
  - Access for the delivery trucks will be a new driveway on Parcel 3 six days a week.
  - Truck deliveries will be limited to 7am to 5pm, 6 days per week.
  - Estimated to receive 3-4 chip trailer deliveries in addition to 8 to 10 small dump truck deliveries per day. The site is not proposed to be a public dump site. There will be no residential drop off of materials at the site.
  - The facility will operate 24 hours a day, 7 days a week.
  - 8 employees are proposed, although up to 10 employees may be required.
  - Water for the project is proposed by a shared well that produced 20 gpm at time of installation. The project applicant states that the project's water use will be 1.5 gpm.
  - 60 pounds per day of sludge will be generated by the facility which is proposed to be disposed of at the landfill.
  - 1.2 tons per day of dry ash will be generated by the facility and is proposed to be disposed of at the landfill.

The facility will utilize approximately 12,000 bdt (bone dry tons) per year of sustainably harvested forest biomass in a gasification process to produce a syngas. The syngas will be used to fuel two gas engine generators to produce electricity. (Additional project details may also be found in the attached Initial Study).

After the effective date of the Planning Commission approval of Conditional Use Permit No. 2017-117, the Mariposa Biomass Project shall be constructed in substantial conformance with the approved site plan, building elevations and project description as approved by the Planning Commission. Minor changes in the site plan and increase in project square footages up to 10%, may be considered and approved by the Planning Director if a finding is made that the changes would not necessitate a change in the Project environmental determination. Any substantial modification of the site plan requires additional public review.

2. No changes to the approved site plan, exterior design, color, or materials of any structure or landscaping shall be permitted without review by and written approval of the Planning Director pursuant to applicable conditions for the project.
3. Any representations the public hearing by the applicant or agents speaking on the applicant's behalf shall be reduced to writing and added as conditions of project approval.
4. The conditional use permit (CUP) shall be activated by the issuance of the first building or grading permit within 36 months from the effective date of Planning Commission approval of the project. Should activation of the permit(s) be delayed by any moratorium or excessive delays by a permitting agency over which the County of Mariposa does not exercise control, or should a lawsuit involving the approval of the CUP or related entitlements be pending in a court of competent jurisdiction, the 36 month clock shall be tolled until such time the court action or other delay has concluded. However, if the remaining time is less than 120 days, the permit shall be valid for 120 days following the termination of the moratorium or other event triggering the tolling of the period. The tolling period shall be initiated upon written notice by the applicant to the Planning Department setting forth the facts and circumstances justifying the tolling, and shall be immediately effective unless a written notice of rejection is issued by the Planning Director within 14 days of receipt of applicant's notice.
5. The applicant may request of the Planning Commission one 18-month time extension of the CUP initial time frame (as identified in condition no. 4 above) between the effective date of the approval of the CUP and the start of construction (building permit or grading permit issuance). The application must be made at least 90 calendar days prior to the initial approval expiration date.

The Planning Commission may impose any conditions and/or requirements it finds necessary to guarantee compliance with the project approval findings.

Any tolling provisions provided for by conditions of approval for the use permit shall remain in full effect. Time extension request provisions of this condition do not change any approved applicable tolling provisions.

6. An updated project development schedule shall be submitted to the Planning Director prior to issuance of a grading and/or building permit for the project. The Project schedule shall at a minimum include:
  - Outside agency permitting application estimated submittal timeline
  - Projected overall construction schedule
  - Estimated completion
7. No site disturbance activities shall commence without the issuance of a building or grading permit. Should there be no code requirement for such a permit, a letter authorizing site disturbance activities shall be issued by the Planning Director upon request and upon proof of relevant condition completion.
8. Prior to the issuance of any site disturbance, building or grading permits, the permit holder shall submit final site and construction plans. The final plans shall clearly be labeled to match the approved site plans except as necessary to comply with the project conditions or as allowed by 1. All physical construction for the project shall be in substantial conformance with the approved plans.

#### ***Botanical/Wildlife***

9. Prior to the commencement of site disturbance activities of any kind, the Planning Director shall receive a detailed preconstruction survey clearly identifying areas which are proposed to be retained in natural vegetation (e.g. grasses, shrubs, trees and riparian vegetation). Accompanying the preconstruction survey shall be a construction management plan identifying how "non-disturbance areas" are to be physically protected during construction activities. Physical protection measures shall be in place prior to site disturbance.
10. Mitigation Measure 4.a.1.: A pre-construction survey based on CDFW protocols and survey periods for special-status species shall be performed by a qualified biologist to ensure that special-status species are not present. If any listed species are detected, construction shall be delayed, and the appropriate wildlife agency (CDFW and/or USFWS) shall be consulted and project impacts and mitigation reassessed and applied in conformance with biologist, CDFW and/or USFWS protocols. A verification letter from the CDFW that the survey was completed and protocols met shall be submitted to the Mariposa County Planning Department and approved by the Planning Director prior to grading or building permit issuance.

11. Mitigation Measure 4.c.1: A 10 foot setback shall be in place from the centerline of the onsite ephemeral drainage channel identified within the project Biological Study for protection during construction and operation: there will be no modification of stream banks or adjoining vegetation within the 10 foot setback either during construction or during operation. The construction site and grading plans prepared by a licensed engineer shall show the setback. Setback areas shall be flagged in the field and physically protected prior to and during construction activities.
12. Mitigation Measure 4.d.1. : If construction activities will occur during the nesting season (usually March to September), pre-construction surveys for the presence of special-status bird species or any nesting bird species should be conducted by a qualified biologist within 500 feet of proposed construction areas. If active nests are identified in these areas, CDFW should be consulted to develop measures to avoid "take" of active nests prior to the initiation of any construction activities. Avoidance measures may include establishment of a buffer zone using construction fencing or the postponement of vegetation removal until after the nesting season, or until after a qualified biologist has determined the young have fledged and are independent of the nest site.
13. Mitigation Measure 4.e.1.: There shall be no grading, leveling, soil compaction from the use of heavy equipment, or digging within the root zone of oaks identified in a pre-construction oak tree survey. During construction of onsite improvements, all such oaks located in the area of construction activity identified as not to be removed, shall have erected around the root zone-which is 1 ½ times the drip line of the oak tree crown or 15' whichever is greater- environmentally sensitive area fencing. This fencing shall remain installed, visible, and in good condition until all road construction, grading activities and other soil disturbance activities are completed. At the time of inspection of the completed improvements by the Building Department, Planning Director authorization for removal of the environmentally sensitive area fencing may be granted.
14. Prior to the commencement of construction activities, a tree removal and replacement plan for mature trees shall be prepared by a licensed landscape architect based upon accepted industry practice for approval by the Planning Director. The Plan shall incorporate appropriate measures to be taken to minimize the spread of non-native vegetation.
15. Conceptual landscaping plans are required prior to grading permit issuance and final landscape plans are required prior to building permit issuance; both of which require Planning Director approval. Landscaping plans shall provide vegetative screening of the site from streets, Hwy 49 and adjacent properties

where possible as determined by the County. The applicant/operator shall plant a visual screen that effectively screens the visibility of the site improvements from streets, Hwy 49 and adjacent properties where possible in conformance with PDZ 87-1 standards. A planting plan shall be prepared by a landscape architect and be approved by the County; it shall use low water use trees and vegetation and shall identify the sizes of plantings. Plantings shall be irrigated and monitored for establishment for five (5) years, or as recommended by the landscape architect. If plantings die, they shall be replaced on a one-to-one ratio until established. Irrigation shall meet the 2015 Model Water Efficient Landscape Ordinance (CCR Title 23, Chapter 2.7), as certified by the project landscape architect.

16. Prior to the issuance of any building or grading permits, the permit holder shall submit to the Mariposa County Agricultural Commissioner copies of the construction management plan identifying how the permit holder will take steps to prevent the transport of noxious weeds to the site. Approval by the Agricultural Commissioner of such program shall be transmitted to the Planning Director.

#### ***Public Services***

17. Prior to the issuance of any building or grading permits, the County Fire Chief and CALFIRE shall provide the Planning Director with a letter certifying that the design of the onsite accesses are of adequate width, grade, surfacing, and construction design to meet the requirements of the fire protection agencies.
18. The Project will construct a 110,000 gallon tank and achieve all fire flow requirements. Fire hydrants will be placed on the property as required by the local Fire agencies. The project will comply with state law relating to the storage of wood chips. All applicable CALFIRE FireSafe standards must be met and will be reviewed by County Fire and CALFIRE at the time of construction permit review and prior to Certificate of Occupancy.
19. Mitigation Measure 14.a.1: Prior to grading or building permit issuance the Project plans shall include all details necessary to show compliance with County Fire Department and CALFIRE requirements for fire protection including access, storage tank, hydrant location and fire flow. Approval letters by County Fire and CALFIRE to Planning Director shall be required prior to grading and or building permit issuance.
20. Prior to the issuance of any building or grading permits, the Planning Director shall receive a letter from the CALFIRE indicating the final project design meets the requirements for the Fire Protection State Responsibility Area Firesafe Requirements for driveway standards, gate standards, road standards, emergency water supply standards, fire hydrant standards, defensible space

standards, as may be applicable and as otherwise specified in 14 CCR§1270 et. seq.

21. Prior to the issuance of any grading permits, the permit holder shall submit restoration surety in a form satisfactory to the County Counsel. The amount of surety shall be equal to an engineer's estimate of the cost of site preparation and grading, whichever is greater plus a 50% contingency. This amount of the surety is to be confirmed by the Department of Public Works and guaranteed by an appropriate agreement with the County. Upon completion of the grading final approval by the County, the required security shall be returned to the permit holder.
22. All Completed Unified Program Consolidated Forms and Materials Release Response Plan (Business Plan) shall be submitted to the County Environmental Health Department for review approval prior to the final Certificate of Occupancy of the project. (Ongoing compliance shall be required or conditional use permit revocation may occur). A Letter from the Health Department to the Planning Director Confirming that this condition has been met shall be required prior to Planning approval of the final Certificate of Occupancy for the project.
23. A project solid waste/material output plan is required for submittal and review by the County Environmental Health Division-Local Enforcement Agent and the Public Works Department- Public Works Director prior to grading permit issuance and a final plan approval must occur prior to Certificate of Occupancy for the project.
24. Based on its proximity to the Mariposa-Yosemite Airport, the project shall be designed in compliance with all applicable Federal Aviation Administration (FAA) and State Division of Aeronautics requirements. The applicant shall submit plans to the Public Works Department for review and approval pursuant to this condition. Written verification of approval by the Federal Aviation Administration (FAA) and State Division of Aeronautics shall be required and written confirmation that this condition has been met shall be submitted to the Planning Department by the Public Works Department prior to grading and/or building permit issuance.

***Hydrology, Water and Wastewater***

25. Mitigation Measure 18 e.1.: Prior to grading or building permit issuance, the relocation of the septic easement as shown on the grading plan and site plan must be completed and recorded to the satisfaction of the County Health Department- Environmental Health Division, County Surveyor and Planning Director.



26. The Project water well system shall meet all applicable local and state requirements including but not limited to State Division of Drinking Water requirements. The Planning Director shall receive verification from the County Health Department and State Water Resources Control Board, Division of Drinking Water that this condition has been met prior to the Certificate of Occupancy for the project.
27. The project shall install and maintain onsite pollutant control measures during project construction and operation as required ensuring NPDES compliance. The permit holder shall provide the Planning Director with a copy of its approved State Water Resources Control Board Construction Activity Storm Water Permit and or any operational storm water permit for industrial activities prior to grading and/or building permit issuance.
28. The project shall install and maintain onsite runoff attenuation facilities with sufficient capacity to reduce 100-year project stormwater runoff rates to those currently generated by the project site. The project engineered grading plans shall include these facilities. County Engineer approval the plan is required prior to grading permit issuance.

#### ***Air Quality/Greenhouse Gas Emissions***

29. Project shall be designed to meet all County Air Pollution Control District (APCD) requirements and the Air Pollution Control Officer shall approve the project plans and contract specifications prior to the issuance building or grading permits as applicable.
30. All facilities operations, collection and transmission facilities shall incorporate appropriate equipment and design so that odors cannot be detected and that dust control protocols are in place. The Environmental Health Division Director shall approve the project plans prior to the issuance of construction permits, occupancy or facility operation as deemed appropriate by the Environmental Health Division Director.
31. Mitigation Measure Air Quality 3 (e) 1: An operational management plan that includes 1) odor control activities and 2) methods for the project operations that demonstrate industry standard protocols for any nuisance odor and 3) best management practices shall be prepared by an appropriately licensed air quality professional and approved by the MCAPCO prior to building permit issuance.
32. The project must obtain an "Authority to Construct" permit prior to building permit issuance for the project from the Mariposa County Air Pollution Control District (MCAPCD). Mariposa County Air Pollution Control District (MCAPCD) verification



that this condition has been met shall be required prior to building permit issuance.

***Traffic, Access and Circulation***

33. Mitigation Measure 16.b.1.: Gold Leaf Drive approach improvements shall be improved to meet minimum road surface requirements for the intersection approach prior to Certificate of Occupancy for the project. CALTRANS and/or County Encroachment Permits shall be required as applicable prior to grading or building permit issuance.
34. Mitigation Measure 16.d.1.: Gold Leaf Drive shall be improved to meet CALTRANS radius requirements for the intersection approach prior to Certificate of Occupancy for the project. A CALTRANS Encroachment Permit shall be required prior to grading or building permit issuance. All encroachment improvements shall be completed prior to issuance of a Certificate of Occupancy for the facility.
35. The proposed Copper Leaf Drive driveway encroachments shall meet County standards. County Engineer approval of the encroachment design shall be required prior to grading permit issuance and improvements shall be approved prior to building permit final.
36. Proposed internal driveways, operational roads, truck turnaround and employee parking area shall be designed by the project engineer. Paving shall be required for dust and erosion control.
37. The Project access road from Copper Leaf Drive shall be completely on Parcel 4 unless an easement on the adjacent parcel (APN 012-050-068) for a portion of the access is obtained. IF easement is not obtained, all driveway improvements shall be on the Project Parcel 4 in the same general location as proposed, with increased width all encompassed on the project Parcel 4. Public Works Department, County Surveyor and/or County Engineer approval is required prior to grading permit issuance.
38. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.
39. A parking plan that meets PDZ 87-1 Section V. On-site Parking Standards must be submitted to, and approved by, the County Planning Director prior to grading and/or building permit issuance.

***Aesthetics***

40. All on-site lighting fixtures shall be designed to be in compliance with the model lighting code developed by the International Dark Sky Association and shall be shown on the building permit plans and approved by the Planning Director prior to the installation of any fixtures. The Director may require plan review by a lighting specialist to ensure condition compliance. Applicant shall pay all costs associated with this review.
41. Plans shall be designed to be in compliance with PDZ 87-1 Section III. Improvement Standards, Section IV. Signs and Advertising Displays, Section V. On-site Parking Standards, Section VII. Activity Standards, Section VIII. Design Standards. Elements including, but not limited to, architectural elevations, material types and paint colors shall be included. Planning Director approval of the plans is required prior to grading permit, building permit and/or occupancy, permit issuance determined by the Planning Director.
42. A site security and signage program shall be required. Elements shall maintain compliance with PDZ 87-1 Section IV. Signs and Advertising Displays standards including but not limited to fencing, signage. Program shall be approved by the Planning Director prior to grading or building permit issuance.

***Cultural and Historical Resources***

43. Mitigation Cultural Resources 5.d.1 A Native American monitor shall be on-site for the duration of ground disturbance. During road grading, soil testing and/or construction, or any activity that involves ground disturbance necessary to implement project conditions of approval, if any signs of prehistoric, historic, archaeological, paleontological resources are evident, all work activity within fifty feet of the find shall stop and the Mariposa County Planning Department shall be notified immediately. No work shall be done within fifty feet of the find until Planning has identified appropriate measures to protect the find and those measures have been implemented by the applicant. Protection measures for the site may include, but not be limited to, requiring the applicant to hire a qualified archaeologist who shall conduct necessary inspections and research, and who may supervise all further ground disturbance activities and make any such recommendations as necessary to ensure compliance with applicable regulations. In addition to the Planning Department, the Mariposa County Coroner and the Native American Heritage Commission shall be notified should human remains be discovered. If the remains are determined by the Native American Heritage Commission to be Native American, the NAHC guidelines shall be adhered to in treatment and disposition of the remains. Representatives of the Most Likely Descendant shall be requested to be on-site during disturbance and/or removal of human remains.

**Noise**

44. Mitigation Measure 12d.1: Within the facility start up and operational testing period and prior to building permit certificate of occupancy, noise testing shall be conducted and a noise monitoring report shall be submitted to the Planning Director for review and verification that project operating noise levels do not exceed limits established by PDZ 87-1 Section VII. Activity Standards, A. Noise. If the monitoring report finds that the noise thresholds are in exceedance of PDZ 87-1 allowances, then the report shall provide recommendations for appropriate noise reduction measures that reduce noise levels to meet the PDZ 87-1 standards and those recommendations shall be incorporated into the project. A certificate of occupancy shall not be issued until the noise monitoring concludes that the noise is below the PDZ 87-1 limits. The report shall be prepared by an appropriately licensed or qualified professional.

**Additional Conditions**

45. The Property Owner (Owner) shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. Actions concerning the project and approvals granted shall include, but not be limited to, the environmental determination made pursuant to the California Environmental Quality Act (CEQA). Furthermore, Owner shall indemnify, protect, defend, and hold harmless the County, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against another governmental entity in which Owner's project is subject to that other governmental entity's approval and a condition of such approval is that the County indemnify and defend such governmental entity. County shall promptly notify the Owner of any claim, action, or proceeding. County will further cooperate in the defense of the action.

An agreement on a form approved by Mariposa County Counsel shall be executed within twenty (20) working days of the date of project action. Non-compliance with this condition may result in revocation of project approval by the county.

46. Prior to issuance of permits, all fees associated with the County's processing of the map and filing of associated CEQA documents (applicable to the conditional

use permit) shall be paid. The Department of Fish and Wildlife CEQA filing fee (\$2,280.75 as of January 1, 2018) and County Clerk fee (\$50 as of January 1, 2018) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, March 2, 2018, because if the fee is not paid within 5 working days, and the Notice of Determination is not filed with the County Clerk prior to close of business on Friday, March 2, 2018 the environmental determination is not operative, vested, or final. (Section 21089(b) Public Resources Code).

The County Clerk requires that one check be submitted to cover both of these fees, for a total of **\$2330.75** (effective January 1, 2018), and that it be in the form of a cashier's check or money order payable to "Mariposa County;" The County Clerk will not accept a personal check for these fees. Submit the check to Mariposa Planning who will file this fee and other required documents with the County Clerk.

NOTE: The filing fees are adjusted annually, effective January 1st of each year, pursuant to Fish and Game Code.

47. Proof of binding legal right for Public Utility Easement/s to accommodate the utility service connection from the Mariposa Biomass facility to PG&E facilities/infrastructure shall be required for submittal, review and approval by the County Surveyor prior to grading and/or building permit issuance.