



Los Angeles County
Department of Regional Planning



Planning for the Challenges Ahead

Richard J. Bruckner
Director

August 11, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Antelope Power, LLC -- Attn: Nat Parker
421 SW Sixth Avenue
Portland, OR 97204

**REGARDING: PROJECT NO. R2011-00177-(5)
CONDITIONAL USE PERMIT NO. 201100018
Vicinity of 170th Street West and Lancaster Road**

Dear Applicant:

The Regional Planning Commission, by its action of Wednesday, August 10, 2011, **APPROVED** the above described project and entitlements. The attached documents contain the Regional Planning Commission's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 3 requires that the permittee file an affidavit accepting the conditions before the grant becomes effective.

The applicant or any other interested person may appeal the Regional Planning Commission's decision to the Board of Supervisors through the office of Sachi A. Hamai, Executive Officer, Room 383, Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012. Please contact the Executive Office for the amount of the appeal fee at (213) 974-1426. **The appeal period for this project will end at 5:00 p.m. on Wednesday, August 24, 2011.** Any appeal must be delivered in person to the Executive Office by this time. If no appeal is filed during the specified period, the Regional Planning Commission action is final.

Upon completion of the appeal period, please notarize the attached acceptance forms and **hand deliver** this form and any other required fees or materials to the planner assigned to your case. Please **make an appointment** with the case planner to assure that processing will be completed expeditiously.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact Adam Thurtell at (213) 974-6443 or e-mail at athurtell@planning.lacounty.gov of the Zoning Permits North Section. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,

Department of Regional Planning
Richard J. Bruckner
Director

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

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)

c: BOS; DPW (Building and Safety); Zoning Enforcement, Testifiers, Healy Enterprises, Inc -- Attn: Jane Healy
Antelope Power, LLC -- Attn: Nat Parker

SMT:AT
Hearing Footage: 8/10/2011-Item 8

INSTRUCTIONS

Please read carefully. Failure to follow these instructions as stated may result in delaying the issuance of the approved site plan and any necessary building permits.

After the termination of the appeal period (14 days after the hearing date), if no appeal was received, proceed with the following instructions.

1. Sign **both** attached Affidavit of Acceptance forms in the presence of a notary and have the notary attach an acknowledgement. Both the applicant and owner lines must be signed on the form, even if they are the same person.
2. Record the conditions of approval. Submit **in person (do not mail)** one original "Affidavit of Acceptance" form (with wet signature) and a copy of the Conditions of the grant to:

The Los Angeles County Recorder
12400 Imperial Highway
Norwalk, CA 90650

The "Affidavit of Acceptance" serves as proof to the Registrar Recorder of your acceptance of conditions associated with this grant. Both the County Recorder Office and the Department of Regional Planning need an original Affidavit of Acceptance form with wet signature.

The County Recorder's Office will provide you a certified copy of the recorded conditions to be submitted to the Department of Regional Planning.

3. Make an appointment with the assigned case planner to submit the following items:
 - Second original Affidavit of Acceptance form (with wet signature).
 - Certified copy of the recorded documents from the County Recorder.
 - Three copies of the site plan. **Plans must be folded** to fit into an 8 ½" X 14" folder.
 - One check for the inspection fees (see conditions for fee amount). Make the check payable to: County of Los Angeles.
 - A second check for the Fish and Game fees may be required (if marked below). LA County Registrar-Recorder/County Clerk in the amount of:

Not Required

\$2,085.25 (includes \$75.00 processing fee) for the issued Negative Declaration or Mitigated Negative Declaration

\$2,867.25 (includes \$75.00 processing fee) for the required Environmental Impact Report

The County Clerk will not accept a Notice of Determination or Exemption for your project until the fees are paid.

Section 21089 (b) of the Public Resources Code provides that no project approval is operative, vested, or final until these fees are paid.

Please write project number on the check(s).

4. Submit the aforementioned items **in person (do not mail)** at:

Hall of Records
Department of Regional Planning, Room 1348
320 West Temple Street
Los Angeles, CA 90012

You will receive a copy of the approved site plan and a copy of the approved site plan and conditions will be sent to the Department of Public Works' Division of Building and Safety.

If you have any questions regarding these instructions, please contact Adam Thurtell at (213) 974-6443, from 7:30 a.m. to 5:30 p.m., Monday through Thursday or via email at athurtell@planning.lacounty.gov. Our offices are closed on Fridays.



Please complete this form and return to:

**The Los Angeles County Recorder
12400 Imperial Highway
Norwalk, CA 90650**

AFFIDAVIT OF ACCEPTANCE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

}SS

**REGARDING: PROJECT NO. R2011-00177-(5)
CONDITIONAL USE PERMIT NO. 201100018
Vicinity of 170th Street West and Lancaster Road**

I/We the undersigned state:

I am/We are the owner of the real property described in the above-numbered case and the permittee in said case: I am/We are aware of, and accept, all the stated conditions in said grant.

I/We have enclosed a check in the amount of \$400.00 payable to the County of Los Angeles as required by the conditions of approval to ensure regular inspections for compliance: I/We also acknowledge that I/We and my/our successors in interest may be required to reimburse the Department of Regional Planning for any additional enforcement efforts necessary to bring the subject property into compliance.

Executed this _____ day of _____, 20_____

I/We declare under the penalty of perjury that the foregoing is true and correct.

(Where the owner and permittee are not the same, both must sign.)

**Type or Print
Applicant**

Name _____

Address _____

City, State _____

Signature _____

Owner:

Name _____

Address _____

City, State _____

Signature _____

*This signature must be
acknowledged
by a notary public. Attach
appropriate
acknowledgements.*



Please complete this form and return to:

The Los Angeles County Recorder
12400 Imperial Highway
Norwalk, CA 90650

AFFIDAVIT OF ACCEPTANCE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

}SS

**REGARDING: PROJECT NO. R2011-00177-(5)
CONDITIONAL USE PERMIT NO. 201100018
Vicinity of 170th Street West and Lancaster Road**

I/We the undersigned state:

I am/We are the owner of the real property described in the above-numbered case and the permittee in said case: I am/We are aware of, and accept, all the stated conditions in said grant.

I/We have enclosed a check in the amount of \$400.00 payable to the County of Los Angeles as required by the conditions of approval to ensure regular inspections for compliance: I/We also acknowledge that I/We and my/our successors in interest may be required to reimburse the Department of Regional Planning for any additional enforcement efforts necessary to bring the subject property into compliance.

Executed this _____ day of _____, 20_____

I/We declare under the penalty of perjury that the foregoing is true and correct.

(Where the owner and permittee are not the same, both must sign.)

Type or Print
Applicant

Name _____

Address _____

City, State _____

Signature _____

Owner:

Name _____

Address _____

City, State _____

Signature _____

*This signature must be
acknowledged
by a notary public. Attach
appropriate
acknowledgements.*

**FINDINGS AND ORDER OF THE
REGIONAL PLANNING COMMISSION
COUNTY OF LOS ANGELES**

**PROJECT NO. R2011-00177-(5)
CONDITIONAL USE PERMIT NO. 201100018
170th Street West near Lancaster Road**

HEARING DATE: 8/10/2011

SYNOPSIS:

The applicant, Element Power, LLC, proposes five temporary meteorological towers (MET towers), each 197' 8" (60 meter) in height, on approximately 3,284 acres in the A-2-5 (Heavy Agricultural Five Acre Minimum) Zone. The towers will collect meteorological measurements for a three-year period. Four years from approval the towers will be removed.

Each MET tower will have a ten square foot base and four sets of guys with a 164 foot (50 meter) outer radius. Each of the guys will be anchored with a six foot rod encased in Quickrete and a three-inch-by-three-inch plate. The guy wires will be equipped with guy guards to prevent tripping and bird diverters with a maximum distance of 15 meters between diverters. The total combined ground area that will be disturbed by this project is approximately 50 square feet. The towers would be located a significant distance from the property lines and adjacent road right-of-ways, and the towers would not be located within or over any drainage, utility, or other easements.

PROCEEDINGS BEFORE THE REGIONAL PLANNING COMMISSION:

A duly noticed public hearing was held before the Regional Planning Commission on August 10, 2011. The Commission heard testimony from the applicant and nine testifiers in opposition to the project. Testifiers in opposition included representatives of Three Points Town Council and Concerned Citizens of West Antelope Valley. Testifiers in opposition raised issues including concerns about the height of the towers and the Fire Department's ability to use low-flying aircraft to fight fires in the vicinity as well as concerns that approval of the meteorological towers would by de facto, be approval of future wind projects.

Representatives of the applicant addressed concerns about aesthetic and environmental impacts by describing the construction of the towers and presenting photographic simulations of a meteorological tower.

The Commission made changes and additions to the conditions that the Commission indicated were necessary in approval of the project. These changes and additions included a requirement that the applicant consult with the Fire Department regarding the benefit and feasibility of installing non-flashing beacon lights for firefighting operations, and language that prohibits the use of a corporate guarantee as financial security to

cover the cost of removal of the facilities. These changes were indicated on the record, and incorporated into the conditions by staff. The Commission also clearly indicated that consideration of the project was limited to the meteorological towers, and that potential future wind projects would have to be separately considered through the public hearing process.

Findings

1. The subject property is located near 170th Street West and Lancaster Road in the unincorporated community of Antelope Valley within the Antelope Valley West Zoned District.
2. The applicant is requesting a conditional use permit (CUP) to authorize the construction of a five temporary meteorological towers (MET towers) each 197' 8" (60 meters) in height. The towers would be removed after three years of operation.
3. The subject property is currently designated N1 (Non-Urban) in the Antelope Valley Area Plan.

The intent of the N1 land use designation is to maintain the character of dispersed non-urban settlements and communities; provide for agricultural and mineral production; preserve areas of significant natural and scenic resources; and avoid intensive development of areas subject to severe natural hazards or lacking essential services.

The MET towers are consistent with the N1 designation. Construction of the MET towers would be noninvasive and temporary. After three years the subject property would be returned to its state pre-construction of these five MET towers. The visual impact of the towers would be minimal while meeting standards of the Federal Aviation Administration (FAA). Flashing beacons are not required by the FAA and would not be included on the towers.

4. The subject property is currently zoned A-2-5 (Heavy Agricultural - Five Acre Minimum). MET towers that exceed 85 feet in height on lots greater than two acres require a public hearing (Section 22.52.1620 of the Los Angeles County Code). MET towers are aesthetically similar to radio towers, which require a conditional use permit in the A-2 Zone (Section 22.24.150).
5. The surrounding properties are zoned as follows:
North: A-2-5
South: A-2-5

East: A-1-2 (Light Agricultural – Two Acre Minimum), A-2-5
West: A-2-5

6. The subject property contains the following structures: one 2,000 square feet. single family residence; seven barns, 2,000 sq. ft. each; one 3,000 sq. ft. maintenance shed; one 500 sq. ft. standard trailer; one 1,000 sq. ft. open-sided hay barn; and three 85-foot tall MET towers. Each tower would be placed on a vacant parcel.
7. Access to the subject property is provided by 170th Street West, an existing Limited Secondary Highway on the County Master Plan of Highways. 170th Street West is currently unimproved and unpaved at this location. Access roads to each individual tower will be unpaved. 170th Street West and the proposed unpaved access roads will adequately serve the subject property and allow the kind and quantity of traffic generated for construction and maintenance of the MET towers.
8. This project is Categorically Exempt under Class 6, Information Collection, under the California Environmental Quality Act (CEQA) reporting requirements. The purpose of the towers is to collect basic meteorological information, and the design of the towers will not result in a serious or major disturbance to an environmental resource.
9. The towers will collect meteorological information for three years, and will then be removed. In order to give the applicant time to remove the towers, the grant term is for a total of four years. To ensure that the towers are removed, the site will be inspected after the grant term expires.
10. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Regional Planning Commission determines that it is necessary to limit the term of the grant to a total of four years, including three years of monitoring.
11. The location of the documents and other materials constituting the record of proceedings upon which the Regional Planning Commission's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits North Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

1. That the proposed use is consistent with the adopted general plan for the area; and
2. That the proposed site is adequate in size and shape to accommodate the development features prescribed in Title 22 of the County Code, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
3. That the Los Angeles County Department of Regional Planning has determined that a Categorical Exemption, Class 6—Information Collection, is the appropriate environmental documentation under California Environmental Quality Act (CEQA) reporting requirements; and
4. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety or general welfare; and
5. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required; and
6. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, loading facilities, landscaping and other development features prescribed in Title 22 of the County Code.

REGIONAL PLANNING COMMISSION ACTION:

1. The Regional Planning Commission has considered the Categorical Exemption for this project and certifies that it is consistent with the finding by the State Secretary for Resources and by local guidelines that this class of projects does not have a significant effect on the environment.
2. AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a CUP as set forth in Section 22.56.040 of the Los Angeles County Code.

3. In view of the findings of fact and conclusions presented above, Conditional Use Permit No. 201100018, Project No. R2011-00177-(5) is APPROVED, subject to the attached conditions.

c: Each Commissioner, Zoning Enforcement, Building and Safety

CONDITIONS OF APPROVAL
PROJECT NO. R2011-00177-(5)
CONDITIONAL USE PERMIT NO. 201100018

1. This grant authorizes use of the subject property for the construction, operation and maintenance of five temporary meteorological towers (MET tower) each 197' 8" (60 meters) in height, as depicted on the approved Exhibit "A", subject to all of following conditions of approval.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, the owner of the property, and any other person, corporation, or entity making use of this grant.
3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of, and agree to accept all of the conditions of this grant, and that the conditions have been recorded as required by Condition No. 7, and until all required monies have been paid pursuant to Condition No. 13. Notwithstanding the foregoing, this Condition No. 3, and Condition Nos. 8, 9, and 10 shall be effective immediately upon the date of final approval of this grant.
4. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
5. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
6. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the County Regional Planning Commission ("Commission") or a County Hearing Officer may, after conducting a public hearing, revoke or modify this grant if the Commission or Hearing Officer finds that these conditions have been violated, that this grant has been exercised so as to be detrimental to the public's health or safety, has been exercised so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.
7. Prior to the use of this grant the permittee, or the owner of the subject property if other than the permittee, shall record the terms and conditions of the grant in the office of the County Registrar-Recorder/County Clerk. In addition, upon any transfer or lease of the subject property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its terms and conditions to the

transferee or lessee, as applicable, of the subject property. Upon recordation, an official copy of the recorded conditions shall be provided to the Director of Regional Planning ("Director").

8. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of section 65009 of the California Government Code or any other applicable limitation period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim, action, or proceeding, or if the County fails to fully cooperate in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
9. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within 10 days of the filing make an initial deposit with Regional Planning in the amount of \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to the permittee or the permittee's counsel.

If during the litigation process actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of the initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with section 2.170.010 of the County Code.

10. This grant shall expire unless used within two years from the date of final approval of the grant by the County. A single, one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
11. This grant shall terminate on August 10, 2015. Monitoring shall terminate on or before August 10, 2014, and removal of the MET towers shall be completed within one year from the date that monitoring terminates, but in no event later than the grant termination date. Entitlement to the use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, whether or not the permittee proposes any

modifications to the use at that time, the permittee shall file a new conditional use permit application with Regional Planning, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six months prior to the termination date of this grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.

12. The subject property shall be developed, maintained, and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections will be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file.
13. Within 60 days after the date of final approval of this grant, the permittee shall deposit with the County the sum of \$400.00. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. This fund shall provide for two inspections; one inspection shall take place after construction and one inspection shall take place upon removal of the MET towers.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The charge for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.
14. All development shall comply with the requirements of the County Department of Public Works ("Public Works").
15. All development pursuant to this grant shall be kept in full compliance with the County Fire Code.
16. All requirements of Title 22 of the County Code and of the specific zoning of the subject property must be complied with unless otherwise modified as set forth in these conditions, or as shown on the approved plans.

17. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain free of litter all areas on the premises over which the permittee has control.
18. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage that was not approved by Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
19. The permittee shall maintain a current contact name, address, and phone number with Regional Planning at all times
20. If requested by the County Fire Department, the permittee shall provide a non-flashing beacon light on each MET tower to be utilized in emergency situations for firefighting purposes, when determined to be feasible and beneficial for firefighting purposes in consultation with the County Fire Department, and in compliance with all regulations, including but not limited to FAA regulations.
21. One sign, limited to 18 inches in length and one foot in height, shall be posted at the base of each tower; the signs shall include a notice of no trespassing, and the phone number of the property owner to call in the event of an emergency.
22. All climbing apparatus shall be located a minimum of 12 feet above the ground, and the towers shall be designed to prevent climbing within the first 12 feet.
23. Safety wires shall be installed on the turnbuckles of all guy wires on the towers pursuant to the exhibit provided by the permittee at the public hearing and attached hereto showing safety wires installed on a minimum of the bottom 8 feet of the guy wires.
24. No part of any MET tower shall be located within or over drainage, utility, or other established easements, or on or over property lines.
25. The height of each tower, measured from the natural grade to the top of the tower, shall not exceed a height of 197' 8" feet (60 meters).
26. The minimum distance between each MET tower excluding guy wires and their anchors, and any property line or road right-of-way, shall be 200 feet, provided

that the required distance shall also comply with any applicable fire setback requirements pursuant to section 4290 of the Public Resources Code.

27. Within three (3) years after approval of this grant the permittee shall cease operation of the MET towers. Prior to termination of this grant as required by Condition No. 11, the permittee shall remove the facilities, clear the sites of all equipment, and restore the sites as nearly as practicable to its condition prior to the installation of the facilities. Failure to remove each such facility as required above shall constitute a public nuisance. Prior to installation of any such facility, the permittee shall post a performance security, to the satisfaction of the Director of Public Works and Director of Planning, in an amount and form sufficient to cover the cost of the removal of that facility as provided herein. In no event shall a corporate guarantee be considered sufficient security for the removal of that facility.
28. Upon final approval of this grant, the permittee shall contact the County Fire Department to determine the requirements that must be satisfied for fire protection purposes related to the permittee's use. All such requirements shall be satisfied to the satisfaction of and within the timeframe set by said department.
29. Upon final approval of this grant, the permittee shall contact the FAA to determine the requirements that must be satisfied for purposes related to the permittee's use. All such requirements shall be satisfied to the satisfaction of and within the timeframe set by said agency
30. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, three copies of a modified Exhibit "A" shall be submitted to Regional Planning within 60 days of the date of final approval of this grant.
31. All structures related to the permittee's use shall conform to the requirements of Public Works Division of Building and Safety.

SMT:AT
August 10, 2011