

**BEFORE THE PLANNING AND ZONING COMMISSION  
OF ELMORE COUNTY**

**IN RE: CUP-2011-04 )  
Amended conditional use permit )  
for a Wind Turbine Farm )  
Electrical Generating Facility )  
in an Agriculture Zone. )**

**FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDER**

**Applicant: )  
High Mesa Energy, LLC )  
1508 Brookside Loop )  
Twin Falls, ID 83301 )**

This matter having come before the Planning and Zoning Commission of Elmore County, Idaho, the 1<sup>st</sup> day of February, 2012, for a public hearing, held pursuant to public notice as required by law, on a request to amend a Conditional Use Permit for a proposed wind turbine farm electrical generating facility. Property is located in W ½ Section 16 and W ½ Section 21, Township 6 South, Range 12 East, B.M., and is zoned Agriculture (AG). A common way of locating the property is from Interstate Exit 125 head South on Thomas Hill Rd approximately 2 miles, then west on E. Pasadena Valley Road for 0.25 miles, then south and east on E. Black Mesa Road for approximately 5 miles, then south on Bell Rapids for approximately 3 miles, then East on S. Deer Gulch Road for approximately 8 miles, site is on right side of road. The Commission heard from the applicant in support of the application. The Commission received written testimony and information in regards to the application. Upon conclusion of the public hearing, the Commission duly considered all that was presented to them. Based upon all this information, the Planning and Zoning Commission now makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. The property is located within an Agriculture Zone.
2. The property is located within the Wildfire Urban Interface (W.U.I) Overlay Zone.
3. There are similar existing facilities within the vicinity of this project.
4. Notice of public hearing has been given to agencies and property owners by mail on January 6, 2012 and was publicized in the Mountain Home Newspaper on January 11, 2012. Notice was posted on property on January 24, 2012.
5. The proposed use requires a variance for structure height.
6. The surrounding land use is agriculture.
7. Electrical Generating Facilities are required to have a Conditional Use Permit under Chapter 8, Table 6-8-11 (C) of the Elmore County Zoning and Development Ordinance.
8. The proposed use is in harmony with and in accordance with the Elmore County Comprehensive Plan: Land Use Objective #7, Public Service Goal #1, Public

Service Objective-Electrical Power #3 and the Zoning and Development Ordinance.

9. The proposed use complies with the purpose statement of the applicable base zone, agriculture as a shared use and with the specific use standards as set forth in Chapter 8. The operations are compatible with farming, ranching and grazing.
10. The proposed use will comply with all applicable County Ordinances.
11. The proposed use is conditioned to comply with all applicable State and Federal regulations.
12. The proposed use will be designed, constructed, operated and maintained in such a way as to be harmonious and appropriate in appearance with the existing or intended character of said area. There are existing windfarms in the area.
13. Agriculture use will be maintained as a shared use.
14. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the County. The developer will be responsible for all improvements and all interior roads will be private.
15. The proposed use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
16. The proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance.
17. The proposed use has additional requirements under section 6-9-95 of the Elmore County Zoning and Development Ordinance.
18. The proposed use is to expand the previous footprint of the permitted wind farm in Twin Falls county and Elmore county 40MW High Mesa Wind project by moving six (6) turbine sites for the East ½ of section 21 in Twin Falls county to the West ½ of section 21 in Elmore county.
19. The proposed use requires a variance for structure height.

Based on the foregoing **FINDINGS OF FACT**, the Elmore County Planning and Zoning Commission hereby makes the following:

#### **CONCLUSIONS OF LAW**

1. The requirements of Idaho Code Section §67-6509 have been met.
2. The action taken herein does not violate Chapter 80 of Title 67 of the Idaho Code.
3. The applicant has met the requirements of the Zoning and Development Ordinance Chapter 27 for a Conditional Use Permit as shown above in the findings of fact.

Based on the foregoing **CONCLUSIONS OF LAW**, the Elmore County Planning and Zoning Commission hereby enters the following:

#### **ORDER**

The application for a Conditional Use Permit for a wind turbine farm electrical generating facility located in W ½ Section 16 and W ½ Section 21, Township 6 South, Range 12 East, B.M., should be and is hereby **APPROVED** with these additional conditions:

## ADDITIONAL CONDITIONS

1. A post-construction avian fatality study will be conducted as outlined in the project narrative.
2. The development will comply with all the requirements of Elmore County Zoning and Ordinance section 6-8-95 Electrical Generating Facilities.
3. No more than 13 wind turbines towers will be constructed on site.
4. The development will meet the requirements of the Idaho Transportation Department Division of Aeronautics.
5. All outstanding fees must be paid prior to the issuance of an Elmore County building permit.
6. The proposed use will be constructed in substantial conformance with the master site plan.
7. All electrical generating facilities and buildings will be removed within 180 days of the expiration of the use. All footings and foundations shall be removed to a depth of three feet below the surface.
8. Prior to erecting any wind turbine, the developer will submit a decommissioning plan to the Growth and Development Department estimating the cost (net of scrap value) of restoring the site in accordance with Condition 7. Developer will enter a bond with Elmore County for the net cost of removal of the structures. The amount and terms of the bond shall be approved by the Elmore County Board of County Commissioners. Developer shall submit an updated decommissioning plan every five years and will increase the amount of the bond if the net cost of removal increases from the prior study.
9. Prior to issuance of a building permit, an overall site plan must be approved by the county engineer to ensure drainage, grading and storm water management is adequate. The development will comply with all recommendations of the County Engineer.
10. All new roads will be restricted to the CUP site wind farm access only. All new access roads will be approved in accordance with Elmore County Ordinance Chapter 12 and 17 applicable sections.
11. Failure to comply with any of the conditions may result in revocation of the Conditional Use Permit.
12. If roads remain private the developers and landowners will enter into a road user maintenance agreement.
13. All temporary construction buildings are required to have building permits.
14. Lighting on the wind turbine will be able to be seen with night vision goggles and comply with FAA standard.
15. A Storm Water Pollution Prevention Plan (SWPPP) needs to be in place prior to beginning of construction.

**COMMISSION VOTE:**

CHAIRPERSON PATTI OSBORN	VOTED AYE
VICE CHAIRPERSON K.C. DUERIG	VOTED AYE
DEBBIE LORD	VOTED AYE
SUSAN FISH	ABSENT
BETTY VAN GHELUWE	VOTED AYE
JIM MARTIN	VOTED AYE
ED OPPEDYK	VOTED AYE
JEFF BLANKSMA	VOTED AYE



Patti Osborn, Chairperson

**ATTEST:**



Alan Christy, Director

DATED this 15th day of February 2012.

\*Effective at 12:01 A.M. on the 25th day of February 2012.

\*Note            A decision made by the Elmore County Planning and Zoning Commission may be appealed to the Board of Elmore County Commissioners provided the appeal is submitted in writing to said Board within ten (10) calendar days of Commission action. Questions concerning appeals or deadlines should be asked of the Elmore County Growth and Development Department or the Elmore County Clerk.