

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: December 9, 2010 Time: 2:45 PM	Agenda Item No.: 6 & 7
Project Description: Use Permits to allow the construction of two 60-meter (temporary pole towers) to collect wind and other meteorological data for a period not to exceed three years.	
Project Location: Tower site 1 is located within the 612 acre property of John E. Doud, Section 6, Township 20 South, Range 9 East, in the County of Monterey, located off Lonoak Road 4.6 miles east of King City Tower site 2 is located on the is located within the 640 acre Homen Ranch, Section 11, Township 20 South, Range 9 East, Monterey County, located off Wild Horse Road 4.8 miles northeast of San Lucas.	APN: 420-091-008-000 & 420-091-035-000 Name: Larry A. Homen, Owner/ E.ON Climate & Renewables North America Inc, Agent
Planning File Number's: PLN090296 & PLN090297	
Plan Area: South County Area Plan	Flagged and staked: Yes
Zoning Designation: "PG/40" (Permanent Grazing 40 acre minimum).	
CEQA Action: Categorically Exempt per Section 15304 (e) Class 4	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Zoning Administrator take the following action:

- 1) Adopt the findings that both projects are Categorically Exempt per Section 15304 (e) Class 4 (**Exhibit C1 & C2**); and
- 2) Approve the two Use Permits (PLN090296 and PLN090297) to allow the construction of two temporary pole towers for a period not to exceed three years as described above, based on the Findings and Evidence and subject to the recommended Conditions in (**Exhibit C1 & C2**).

PROJECT OVERVIEW:

The proposed project is to construct two 60-meter temporary pole-towers to collect wind and other meteorological data for a period not to exceed three years. The purpose of the data collection is to assess the wind resources of the project areas. The project sites are located approximately 4.8 miles directly northeast of San Lucas and 4.6 East of King City (See attached site plan). The temporary pole-towers will require a minimal footprint of approximately 4 square feet for the base and the guy wires will cover an area of approximately 1.2 acres. Twenty four (24) anchor points and guy wires connect each 60-meter, 12-inch diameter pole-tower to the ground. Staff made a field visit to confirm that the visually sensitive areas where the towers were to be located in the foot hills near King City and San Lucas would not be highly visible from Highway 101. It was determined that due to topography it is likely that the towers would not be visibly discernible at 3.17 miles (tower 1) and 5.73 miles (tower 2), while traveling along Highway 101.

Staff's review focused on consistency with the Central Salinas Valley Area Plan (CSVAP) and the California Environmental Quality Act (CEQA). The primary issues involve impacts to visual and biological resources. The areas where the towers are proposed were surveyed; no biologically sensitive resources were identified. Furthermore, the County determined that the project is consistent with policies in the CSVAP regarding visually sensitive areas and therefore finds the project as proposed to be Categorically Exempt from further CEQA review per Section 15304 (e), which allows for a minor temporary use of the land having negligible or no permanent effects on the environment.

See Exhibit B for a more detailed discussion.

OTHER AGENCY INVOLVEMENT:

- ✓ South County Fire Protection District
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency
- ✓ Airport Land Use Advisory Committee
- ✓ Agricultural Advisory Committee

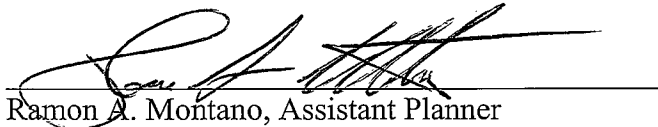
The above checked agencies and departments have reviewed this project. Conditions recommended by the Resources Management Agency-Planning Department have been incorporated into the condition compliance-reporting plan (**Exhibit C 1 & C2**).

The project was not referred to a Land Use Advisory Committee (LUAC) because there is currently no review committee for this area. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338.

The project was referred to the Airport Land Use Commission (ALUC) for informational purposes. The ALUC commented that the County should consider safety issues such as requiring the guy wires and temporary pole towers to be clearly identified by markers and lighting. (See Exhibit B for a more detailed discussion)

The project was referred to the Monterey County Agricultural Advisory Committee (AAC) who suggested that the County contact companies who fly planes and helicopters in support of agricultural operation and advise them of the locations of new towers, its height and how long it may be installed in the landscape. (See Exhibit B for a more detailed discussion)

Note: The decision on this project is appealable to the Planning Commission (21.80.040).



Ramon A. Montano, Assistant Planner
(831) 755-5169; montanor@co.monterey.ca.us
November 30, 2010

cc: Front Counter, Zoning Administrator; South County Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; Taven Kinison Brown, Planning Services Manager; Ramon A. Montano, Project Planner; Carol Allen; Property Owner's; Larry Allen Holman; and John E. Doud, Agent/ E.ON Climate & Renewables North America Incorporated, Planning Files PLN090296 and PLN090297.

Attachments: Project Data Sheet	Exhibit A1 & A2
Project Discussion	Exhibit B
Draft Resolution, including Conditions of Approval	Exhibit C1
Draft Resolution, including Conditions of Approval	Exhibit C2
Site Plan and Elevations	Exhibit D1
Site Plan and Elevations	Exhibit D2
Vicinity Maps	Exhibit E1 & E2

This report was reviewed by, Taven Kinison Brown, Planning Services Manager.



EXHIBIT A1
PROJECT DATA SHEET FOR PLN090296

Project Title: Doud
Location: Township 20 South, Range 9
East, in the County of
Monterey, located off Lonoak
Road 4.6 miles east of King
City

Primary APN: 420-091-008-000
Coastal Zone: NO

Applicable Plan: Central Salinas Area Plan
Permit Type: Use Permit

Zoning: PG/40
Plan Designation: Permanent Grazing 40
acres per unit

Environmental Status: Categorically Exempt 15304 (e)
Advisory Committee: None

Final Action Deadline: 12/09/2010

Project Site Data:

Lot Size:	612.7 acres	Coverage Allowed:	5%
Existing Structures (square feet):	0	Coverage Proposed:	0
Proposed Structures (square feet):	0	Height Allowed:	30'
Total Square Feet:	0	Height Proposed:	197'
		FAR Allowed:	5%
		FAR Proposed:	N/A

Resource Zones and Reports:

Environmentally Sensitive Habitat:	None Identified	Erosion Hazard Zone:	High
Biological Report #:	LIB100440	Soils/Geo. Report #:	N/R
Forest Mgt. Report #:	N/A	Geologic Hazard Zone:	High
Archaeological Sensitivity Zone:	High	Geologic Report #:	N/R
Archaeological Report #:	LIB100441	Traffic Report #:	N/R
Fire Hazard Zone:	High		

Other Information:

Water Source:	N/A	Sewage Disposal (method):	N/R
Water District/Company:	N/A	Sewer District Name:	N/A
Fire District:	South County FPD	Grading (cubic yards):	0
Tree Removal (Count/Type):	None		

EXHIBIT A2
PROJECT DATA SHEET FOR PLN100297

Project Title: Homen
Location: Section 11, Township 20
South, Range 9 East,
Monterey County, located off
Wild Horse Road 4.8 miles
northeast of San Lucas

Primary APN: 420-091-035-000
Coastal Zone: NO

Applicable Plan: Central Salinas Area Plan
Permit Type: Use Permit

Zoning: PG/40
Plan Designation: Permanent Grazing 40
acres per unit

Environmental Status: Categorically Exempt 15304 (e)
Advisory Committee: None

Final Action Deadline: 12/09/2010

Project Site Data:

Lot Size: 612.7 acres	Coverage Allowed: 5%
Existing Structures (square feet): 0	Coverage Proposed: 0
Proposed Structures (square feet): 0	Height Allowed: 30'
Total Square Feet: 0	Height Proposed: 197'
	FAR Allowed: 5%
	FAR Proposed: N/A

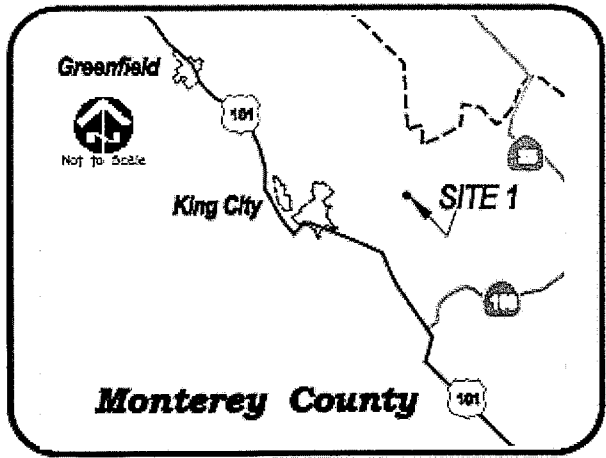
Resource Zones and Reports:

Environmentally Sensitive Habitat: None Identified	Erosion Hazard Zone: High
Biological Report #: LIB100440	Soils/Geo. Report #: N/A
Forest Mgt. Report #: N/A	Geologic Hazard Zone: High
	Geologic Report #: N/R
Archaeological Sensitivity Zone: High	
Archaeological Report #: LIB100441	Traffic Report #: N/R
Fire Hazard Zone: High	

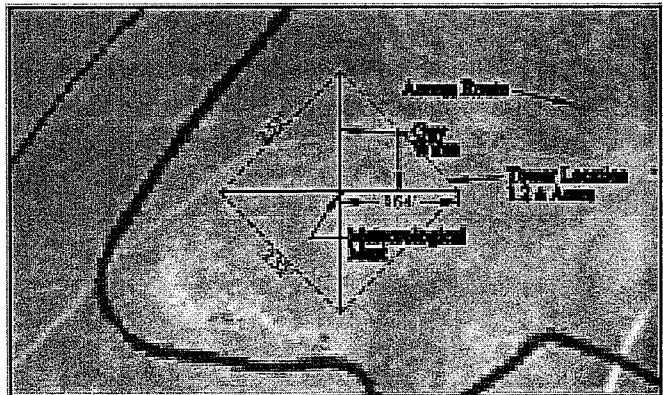
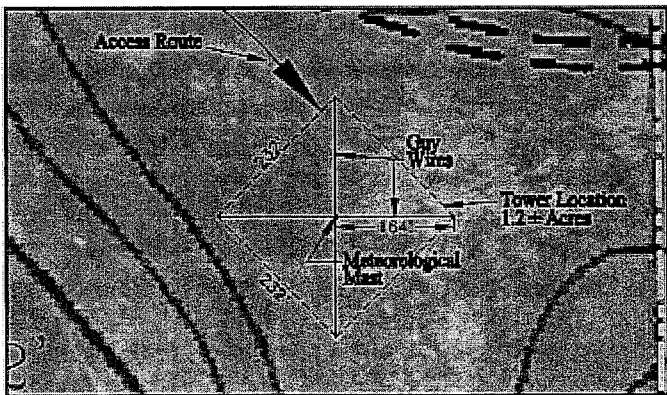
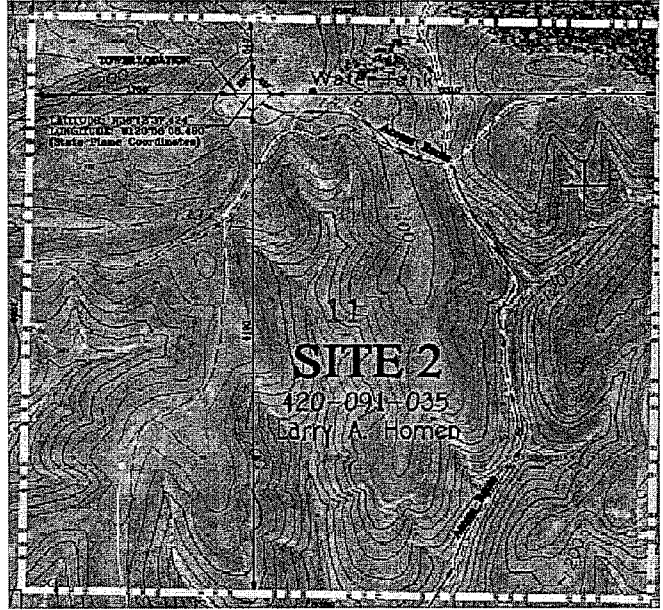
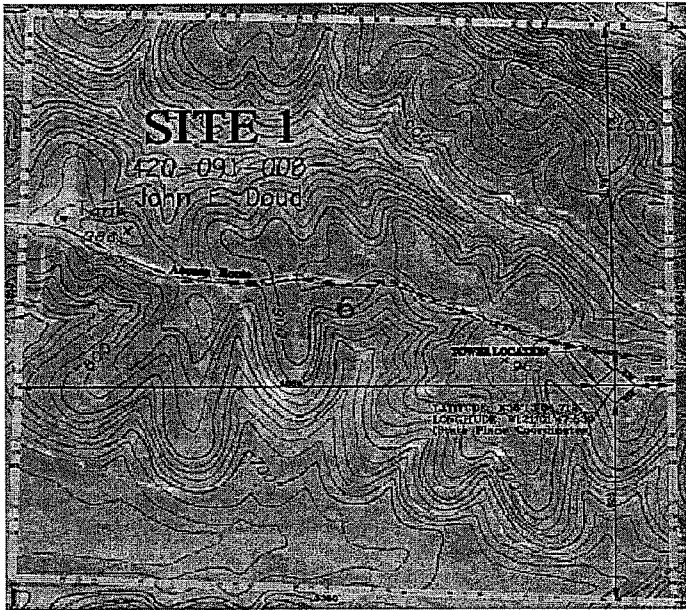
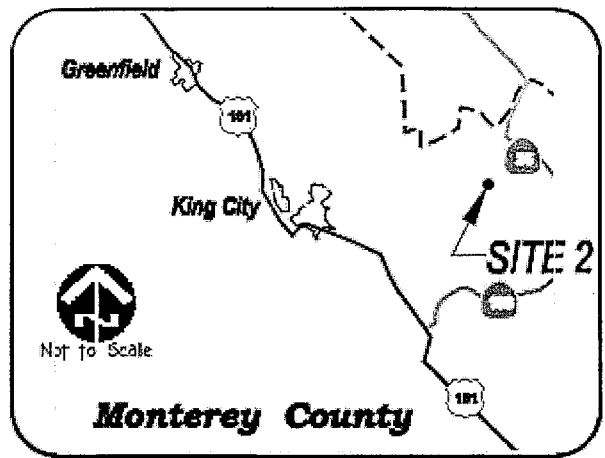
Other Information:

Water Source: N/A	Sewage Disposal (method): N/R
Water District/Company: N/A	Sewer District Name: N/A
Fire District: South County FPD	Grading (cubic yards): 0
Tree Removal (Count/Type): None	

VICINITY MAP



VICINITY MAP



Project location maps in proximity to King City and San Lucas. The site plan of the parcel with a close-up of the tower sites

EXHIBIT B DISCUSSION

Use Permits to allow a height exception for two temporary pole towers for the collection of meteorological data

Project Analysis

Proposed Development:

- Use Permits for a height exception to allow the construction of two 197 foot or 60 meter temporary meteorological towers. Cross-section views of the towers show them to be approximately 12 inches in diameter at the base. The materials the pole-towers will be constructed of are galvanized steel pipe and small amount of concrete at the base. There are 24 guy wires, which will attach to 12-anchor screws (driven into the ground) to stabilize and support the two 60-meter tall pole-towers to the ground. These temporary-pole towers will create a minimal footprint of approximately 4 square feet at the base and the guy wire will cover an area of approximately 1.2 acres. The towers are conditioned to utilize aircraft safety markers for low flying aircraft for the purposes aviation safety as suggested by the Airport Land Use Commission. Additionally the guy wires are to be marked with Bird flight diverters, to protection bird against striking to the guy wires by utilizing motion, reflectivity, and light emission to alert birds and bats of an upcoming obstruction.
- The term of the use permits will not exceed a period of three years. The applicant has indicated that the term for data collection may be less but will not require more than the specified time limit. The applicant will be required to provide a remediation plan for the removal of the pole-towers and post financial surety such as a bond to ensure the remediation of the site no less than 30 days after the removal of the tower or after the three year period of this permit has expired.

Site Development Standards:

The project is consistent with the standards of the Monterey County Zoning Ordinance (Title 21) for (Section 21.30.060 & 21.62.030) as follows:

- Height The Meteorological pole towers may be constructed to a height can be allowed to be constructed to a greater height than the limit established in the “Permanent Grazing” zoning district require that a use permit making an exception to height must first be secured, per Section (21.62.030 B). The proposed pole-tower will be limited to a maximum height of 197 feet or 60 meters
- Setbacks The proposed structure set back from any property line or county road
 - a. Site 1 location of temporary pole tower (Lonoak Road), the proposed foot print of the tower is closest 282 feet at the east end of the property the farthest point at west side is 4,664 feet, south end, 1,828 feet and north or front is 3,178 feet.
 - b. Site 2 location of temporary pole tower (Wild Horse Road), the proposed foot print of the tower is closest 540 feet at the north end of the property the farthest point at 4,490 feet at the south end, west 1,750 feet and east 8,310 feet.

This exceeds the required setbacks for accessory non-habitable accessory structures (50’ from the front property line; and 6’ from the side; and 6’ six feet from the rear). Therefore, the project meets the criteria under the Permanent Grazing development standards.

- Building Site Coverage The projects as purposed would cover approximately an area of four square foot for the base of the pole-towers. This would not notably increase or exceed the 5% maximum site coverage allowed on each of the existing 640-acre and 612-acre parcels. No buildings are proposed.

Scenic and Visual Resources:

The property is not located in the area identified in the South County Area Plan (SCAP) as a visually sensitive area. For that, reason staff visited each site and traveled the Highway 101 corridor between King City and San Lucas in the Central Salinas Valley to determine the potential visibility of each site and the potential for a substantially adverse visual impact to the public's viewshed. However due to topography it is likely that the towers would not be visibly discernible at distances, of 3.17 miles (tower 1) and 5.73 miles (tower 2), from any point while traveling along Highway 101. The tower will be temporarily visible from other county roads in the immediate area but because the status of the tower is temporary, when measured against other permanent utility towers in the area the temporary pole-tower would not constitute a substantially adverse visual impact. Staff finds that due to the distances from multiple vantage points along the highway, the temporary 60-meter 12-inch diameter pole-towers would not likely create a substantially adverse visual impact to the public viewshed. This conclusion takes into account the surrounding towers (power transmission lines). The towers are to be constructed of galvanized steel pipe and steel guy wires which would not be highly visible due to their size from the surrounding area from which the public could view the structure nor would the tower significantly contrast against a blue or gray sky from a distance. The towers are not required at this height to be painted for safety or maintenance purposes under FAA regulations, nor are they required to be lighted. However, to insure the safety of low flying aircraft used for agricultural purposes conditions have been incorporated into the project recommending that the towers maintain flight avoidance markers and bird strike diverters.

Other regulatory agencies:

1. Currently the proposed 60 meter meteorological tower does not exceed the height requirements under the Federal Aviation Administration (FAA) regulations regarding structure height. Staff contacted the California Department of Transportation, Office of Aviation Planning to determine if the towers were exempt from review or conditions by the FAA and The California Department of Transportation (CALTRANS). Staff confirmed that the temporary towers are exempt under FAA Part 77 regulations and therefore not subject to and further review or conditions by those agencies.
2. Williamson Act. The subject properties are currently under a Land Conservation Agreement. The County determined that based on the language set forth in the agreement that the meteorological towers for data collection are a compatible use and allowed under the zoning code.

Land Use Advisory Committee:

The project was not referred to a Land Use Advisory Committee (LUAC) for review. This is consistent with the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338.

Airport Land Use Advisory Committee:

The project does not fall under the jurisdiction of the Airport Land Use Commission based on current FAA regulations. Staff confirmed with the ALUC that the towers were out of their sphere of review at the meeting on May 10, 2010. The purpose of having the Homen application on the ALUC agenda was to inform the committee of projects that although were under no restrictions from FAA regulations could potentially create a hazard for aircraft in the vicinity. The ALUC reviewed the Homen application and determined that based on the potential for additional towers to be constructed by E.ON climate Renewables, and the perceived larger wind energy project. The committee recommended a continuance, requested additional information, and suggested that the environmental review may be inadequate.

The project was referred to the Airport Land Use Commission to inform the commission of the types of towers that were being permitted in the outlining agricultural areas of the County. Staff had

determined that the tower would be located within an area where agricultural activities are present. The purpose of informing the ALUC of these types of project in the outlining agricultural areas was to seek their suggestions as to what could be done to provide for the safety of low flying agricultural aircraft in the area. The ALUC made several comments and a recommendation to the County on the project. The County considered the Commissions first 4 comments and does not agree that those actions are necessary in this case however the County will act on there suggestion with regard to the “potential hazard to flight the structure may pose” and require as a condition of approval and consider lighting the tower. (See conditions of approve requiring flight avoidance markings and bird strike markers)

The project was referred to the Monterey County Agricultural Advisory Committee (AAC) for informational purposes. The committee reviewed and recommended the towers be constructed. The AAC suggested that the County contact aerial application companies and advise them that if the projects are approved the locations of new towers, there height and how long they would be up. The County agrees with this and will notify to an extent reasonable all parties concerned.

CEQA:

The County has determined that the project as proposed is categorically exempt from further review under the California Environmental Quality Act (CEQA) based on Section 15304 (e) which allows for a minor temporary use of the land having negligible or no permanent effects on the environment. Primary issues involve consistency with the Central Salinas Valley Area Plan specifically with visual impacts and site resources. Staff determined that the proposed temporary towers are consistent with policies in the CSVAP regarding visually sensitive areas as seen from public viewing area i.e. county roads and Highway 101. No sensitive plant or animal resources were identified at the proposed locations of the towers, additionally because the towers incorporated recognized bird strike avoidance measures the County recognizes that the proposed affixed towers at this height do not pose a danger to local avian species during the three year wind data, study period. Therefore, the County finds that the proposed project is consistent with the CSVAP policies and will not create a significant environmental effect to the subject sites. Furthermore, in light of this the temporary nature of the towers the County finds the project to be categorically exempt and not subject to further review under CEQA.

Conclusion:

Staff has reviewed the application material, plans, and reports and concluded that the proposed temporary pole towers purpose to collect meteorological data and thereby determine the feasibility of this area for a “Wind Energy Conversion System” (Wind Farm) is consistent with the Monterey County General Plan policies to encourage investigation of the potential for wind energy resource development. Additionally the proposed project is consistent with policies in the CSVAP regarding visually sensitive areas as seen from public viewing area i.e. county roads and Highways and that no sensitive resources plant or animal were identified at the proposed locations of the towers and that affixed towers at this height do not pose a danger to local avian species during the wind data study periods.

Staff’s review of the current Land Conservation Agreement (LCA) and finds that the current agricultural use of the land is cattle grazing and that the proposed pole tower and potential Wind Farms do not conflict with the current LCA or the Williamson Act. Consequently the County finds the project consistent with the General Plan and area plan policies and regulations and because the towers are of a temporary nature. The County finds the project as proposed categorically exempt from CEQA, (per Section 15304.e), as a project of a minor nature with a temporary use of the land, having negligible or no permanent effects on the environment. For these reasons staff recommends that the Zoning Administrator approve the project as conditioned.

**EXHIBIT C1
DRAFT RESOLUTION AND CONDITIONS OF APPROVAL**

**Before the Zoning Administrator in and for the
County of Monterey, State of California**

In the matter of the application of:

John E. Doud & E.ON Climate & Renewables North America Inc (PLN090296)

RESOLUTION NO.

Resolution by the Monterey County Zoning
Administrator:

- 1) Categorically Exempt per Section 15304 (e) Class
4
- 2) Use Permit to allow the construction of one 60-
meter (temporary pole towers) to collect wind
and other meteorological data for a period not to
exceed three years three years.

(PLN090296, John E. Doud, located within Section
6, Township 20 South, Range 9 East, in the County
of Monterey, located off Lonoak Road 4.6 miles east
of King City within the Central Salinas Valley Area
Plan (APN: 420-091-008-000)

The John E. Doud application (PLN090296) came on for public hearing before the Monterey County Zoning Administrator on December 9, 2010. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS

1. FINDING: CONSISTENCY – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Central Salinas Valley Area Plan (CSVAP), and the Monterey County Zoning Ordinance (Title 21), which designates this area as appropriate for development with a use permit.

- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
 - (b) The properties are located at Section 6, Township 20 South, and Range 9 East, in the County of Monterey, located off Lonoak Road 4.6 miles east of King City. Central Salinas Valley (APN: 420-091-008-000) in the County of Monterey Central Salinas Valley Area. The parcel is zoned: "PG/40"Permanent Grazing 40, unit per acre unit per.
 - (c) Based on information and materials provided, plus Staff site visit conducted in July 21 of 2009, to verify that the project on the subject parcel conforms to the above listed plans.

- (d) The Use Permit application as proposed would allow the construction of one 60-meter (temporary pole tower) to collect wind and other meteorological data.
- (e) The proposed project meets all the other necessary site development standards for "PG/40" Permanent Grazing 40, unit per acre unit per zoning districts:
 1. Height The Meteorological Pole tower may be constructed to a height can be allowed to be constructed to a greater height than the limit established in the "Permanent Grazing" zoning district require that a use permit making an exception to height must first be secured, per Section (21.62.030 B). The proposed pole tower will be limited to a maximum height of 197 feet or 60 meters
 2. Site 1 location of temporary pole tower (Lonoak Road), the proposed foot print of the tower is closest 282 feet at the east end of the property the farthest point at west side is 4,664 feet, south end, 1,828 feet and north or front is 3,178 feet. This exceeds the required setbacks for accessory non-habitable structures (50', 6', & 6'). Therefore, the project meets the criteria under the Permanent Grazing development standards.
 3. Building Site Coverage The projects as purposed would cover approximately an area of four square foot for the base of the pole-towers. This would not notably increase or exceed the 5% maximum site coverage allowed on the 612-acre parcels.
- (f) The project is located within an area identified as visually sensitive however due to topography it is likely that the towers would not be visibly discernible at distances, (3.17 miles tower 1 and 5.73 miles tower 2), from any point while traveling along Highway 101. The tower will be temporarily visible from other county roads in the immediate area but because the status of the tower is temporary, when measured against other permanent utility towers in the area the temporary pole-tower would not constitute a substantially adverse visual impact.
- (g) The project was not referred to a Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338.
- (h) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN090296.

2. FINDING: SITE SUITABILITY – The site is physically suitable for the use proposed.

- EVIDENCE:**
- (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, South County Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended by the RMA-Planning Department have been incorporated.
 - (b) Staff conducted a site visit in July 21 of 2009, to verify that the site is suitable for this use.
 - (c) Materials in Project File PLN090296.

3. FINDING: USE PERMIT - The County finds that the establishment, maintenance, or operation of the proposed temporary pole towers, will not, under the circumstances of the particular case, be detrimental to health, safety, peace,

morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use; or be detrimental or injurious to property and improvement in the neighborhood; or to the general welfare of the County and that The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 of the Monterey County Zoning Ordinance.

- EVIDENCE:** (a) The County determined at the close of the 30-day review period. That the construction of the proposed pole tower would not be detrimental to health, safety and general welfare of persons residing or working in the area or be detrimental or injurious to property and the neighborhood or to the general welfare of the County based on similar uses permitted within the county and the subject area plan.
- (b) Staff confirmed through County records that the subject properties are currently not in violation of any regulations or policies of the County and have not incurred any costs associated with the abatement of violations of County Codes.
- (c) Materials in Project File PLN090296.

4. FINDING: CEQA (Exempt): - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:** (a) California Environmental Quality Act (CEQA) Guidelines Section 15304 (e) class 4 categorically exempt from CEQA per Section 15304 (e) which allows for a minor temporary use of the land having negligible or no permanent effects on the environment.
- (b) Although the project is located within a low archaeological sensitivity area, the results from the report were negative. A condition (Exhibit C 1 condition #6) has been incorporated to require work to stop if during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site.
- (c) Staff determined that the proposed temporary towers are consistent with policies in the CSVAP regarding visually sensitive areas as seen from public viewing area i.e. county roads and Highway 101.
- (d) No sensitive plant or animal resources were identified at the proposed locations of the towers, additionally because the towers incorporated recognized bird strike avoidance measures the County recognizes that the proposed affixed towers at this height do not pose a danger to local avian species during the three year wind data, study period.
- (e) No adverse environmental effects were identified during staff review of the development application during a site visit on July 21, of 2010.
- (f) See preceding and following findings and supporting evidence.

5. FINDING: HEALTH AND SAFETY - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:** (a) See Findings #1, #2, #3 and #4 and supporting evidence.

6. FINDING: NO VIOLATIONS - The subject property complies with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: (a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.

7. FINDING: APPEALABILITY - The decision on this project is appealable to the Monterey County Planning Commission.

EVIDENCE: (a) Section 21.80.040. A of the Monterey County Zoning Ordinance Title 21 (Planning Commission)

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

1. Determine that the project is Categorically Exempt per Section 15304 (e) Class 4 (**Exhibit C**), and
2. Approves the Use Permit in general conformance with the attached sketch (**Exhibit D1**) and subject to the conditions (**Exhibit C 1**), both exhibits being attached hereto and incorporated herein by reference as described above, based on the Findings and Evidence and subject to the recommended Conditions (**Exhibit C 1**).

PASSED AND ADOPTED this 9th day of December 2010.

Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE [DATE]

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

3. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

RESOLUTION EXHIBIT C 1
Monterey County Resource Management Agency Planning
Department
Condition Compliance and/or Mitigation Monitoring Reporting
Plan

Project Name: John E. Doud

File No: PLN090296

APNs: 420-091-008-000

Approved by: Zoning Administrator

Date: December 9, 2010

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<p>PD001 - SPECIFIC USES ONLY This Use Permit to allow the construction of one 60-meter (temporary pole-tower) to collect wind and other meteorological data for a period not to exceed three years. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other-wise stated	

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2.		<p>PD004 - INDEMNIFICATION AGREEMENT</p> <p>The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or 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 approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action, or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action, or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify, or hold the county harmless. (RMA - Planning Department)</p>	<p>Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County.</p> <p>Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.</p>	Owner/ Applicant	Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final/parcel map, whichever occurs first and as applicable	

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3.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A Use Permit (Resolution) was approved by the Zoning Administrator for Assessor's Parcel Number 420-091-008-000 on December 9, 2010. The Use Permit was granted subject to 7 conditions of approval, which run with the land. A copy of the Development Permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	
4.		PD032 - PERMIT TIME/YEAR & DATE The permit shall be granted for a period of three years, to expire on December 9, 2013. (RMA – Planning Department)	None	Owner/ Applicant	As stated in the conditions of approval	
5.		SPD01 - RESTORATION OF SITE WITH NATIVE MATERIALS The applicant or property owner shall submit a restoration plan and financial surety in the form of a bond against the cost of materials, and labor for the complete of the restoration approved by the County. The restoration will restore all areas disturbed by the project to there original condition. This includes restored contours of the land and the vegetation. The restoration plan and bond or other form of surety the county finds acceptable will be submitted 30 days before the end the three year period for review and approval by the County. Upon approval of the restoration plan, the applicant or owner will submit proof of completion of the restoration no more than 30 to 60 days after the expiration of the use permit. (RMA – Planning Department)	The applicant shall submit a restoration plan and financial surety in the form of a bond against the materials and cost of the complete restoration of the disturbed area to the Director of the RMA - Planning Department for approval prior to commencement of use.	Owner/ Applicant	Prior to commencement of use.	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
6.		<p>SPD002 – NON STANDARD CULTURAL RESOURCES</p> <p>If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (RMA - Planning Department)</p>	<p>Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical, or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.</p>	<p>Owner/ Applicant/ Archaeologist</p>	<p>Ongoing</p>	
7.		<p>SPD004 – HEIGHT VERIFICATION AVOIDANCE SAFETY MEASURES.</p> <p>The applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of the RMA- Building Services Department for review and approval, that the height of the structure(s) is consistent with what was approved on the building permit and that standard avoidance measures are installed on the guy wires. (RMA – Planning Department and Building Services Department)</p>	<p>The applicant shall provide evidence from a licensed civil engineer or surveyor as a not or letter prior to final building inspection</p>	<p>Owner/ Applicant/ Engineer</p>	<p>Prior to the final inspection</p>	

END OF CONDITIONS

EXHIBIT C2
DRAFT RESOLUTION AND CONDITIONS OF APPROVAL

**Before the Zoning Administrator in and for the
County of Monterey, State of California**

In the matter of the application of:

Larry A. Homen & E.ON Climate & Renewables North America Inc (PLN090297)

RESOLUTION NO.

Resolution by the Monterey County Zoning
Administrator:

- 1) Categorically Exempt per Section 15304 (e)
Class 4
- 2) Use Permit to allow the construction of one
60-meter (temporary pole towers) to collect
wind and other meteorological data for a
period not to exceed three years.

(PLN090297, Larry A. Homen, located within
Section 11, Township 20 South, Range 9 East, in the
County of Monterey, located off Wild Horse Road
4.8 miles northeast of San Lucas within the Central
Salinas Valley Area Plan (APN: 420-091-035-000)

The Larry A. Homen application (PLN090297) came on for public hearing before the Monterey County Zoning Administrator on December 9, 2010. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS

1. FINDING: CONSISTENCY – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Central Salinas Valley Area Plan (SCAP), and the Monterey County Zoning Ordinance (Title 21), which designates this area as appropriate for development with a use permit.

- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
 - (b) The properties are located at Section 11, Township 20 South, Range 9 East, in the County of Monterey, located off Wild Horse Road 4.8 miles northeast of San Lucas within the Central Salinas Valley Area Plan (APN: 420-091-035-000) in the County of Monterey Central Salinas Valley Area. The parcel is zoned: “PG/40”Permanent Grazing 40, unit per acre unit per.
 - (c) Based on information and materials provided, plus Staff site visit conducted in July 21 of 2009, to verify that the project on the subject parcel conforms to the above listed plans.

- (d) The Use Permit application as proposed would allow the construction of two 60-meter (temporary pole-tower) to collect wind and other meteorological data.
- (e) The proposed project meets all the other necessary site development standards for “PG/40”Permanent Grazing 40, unit per acre unit per zoning districts:
 - 1. Height The Meteorological Pole tower may be constructed to a height can be allowed to be constructed to a greater height than the limit established in the “Permanent Grazing” zoning district require that a use permit making an exception to height must first be secured, per Section (21.62.030 B). The proposed pole tower will be limited to a maximum height of 197 feet or 60 meters
 - 2. Setbacks The proposed structure set back from any property line or county road (Wild Horse Road), the proposed foot print of the tower is closest 540 feet at the north end of the property the farthest point at 4,490 feet at the south end, west 1,750 feet and east 8,310 feet. This exceeds the required setbacks for accessory non-habitable structures (50’, 6’, & 6’). Therefore, the project meets the criteria under the Permanent Grazing development standards.
 - 3. Building Site Coverage The project as purposed would cover approximately an area of four square foot for the base of the pole-tower would not notably increase or exceed the 5% maximum site coverage allowed for the existing 640 acre parcels
- (f) The project is located within an area identified as visually sensitive however due to topography it is likely that the towers would not be visibly discernible at distances, (3.17 miles tower 1 and 5.73 miles tower 2), from any point while traveling along Highway 101. The tower will be temporarily visible from other county roads in the immediate area but because the status of the tower is temporary, when measured against other permanent utility towers in the area the temporary pole-tower would not constitute a substantially adverse visual impact.
- (g) The project was not referred to a Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338.
- (h) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN090297.

2. FINDING: SITE SUITABILITY – The site is physically suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, South County Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended by the RMA-Planning Department have been incorporated.

(b) Staff conducted a site visit in July 21 of 2009, to verify that the site is suitable for this use.

(c) Materials in Project File PLN090297.

3. FINDING: USE PERMIT - The County finds that the establishment, maintenance, or operation of the proposed temporary pole towers, will not, under the

circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use; or be detrimental or injurious to property and improvement in the neighborhood; or to the general welfare of the County and that The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 of the Monterey County Zoning Ordinance.

- EVIDENCE:** (a) The County determined at the close of the 30-day review period. That the construction of the proposed pole tower would not be detrimental to health, safety and general welfare of persons residing or working in the area or be detrimental or injurious to property and the neighborhood or to the general welfare of the County based on similar uses permitted within the county and the subject area plan.
- (b) Staff confirmed through County records that the subject properties are currently not in violation of any regulations or policies of the County and have not incurred any costs associated with the abatement of violations of County Codes.
- (c) Materials in Project File PLN090297.

- 4. FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:** (a) California Environmental Quality Act (CEQA) Guidelines Section 15304 (e) class 4 categorically exempt from CEQA per Section 15304 (e) which allows for a minor temporary use of the land having negligible or no permanent effects on the environment.
- (b) Although the project is located within a low archaeological sensitivity area, the results from the report were negative. A condition (Exhibit C 2 condition #6) has been incorporated to require work to stop if during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site.
- (c) Staff determined that the proposed temporary towers are consistent with policies in the CSVAP regarding visually sensitive areas as seen from public viewing area i.e. county roads and Highway 101.
- (d) No sensitive plant or animal resources were identified at the proposed locations of the towers, additionally because the towers incorporated recognized bird strike avoidance measures the County recognizes that the proposed affixed towers at this height do not pose a danger to local avian species during the three year wind data, study period.
- (e) No adverse environmental effects were identified during staff review of the development application during a site visit on July 21, of 2010.
- (f) See preceding and following findings and supporting evidence.

- 5. FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:** (a) See Findings #1, #2, #3 and #4 and supporting evidence.

6. FINDING: NO VIOLATIONS - The subject property complies with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: (a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.

7. FINDING: APPEALABILITY - The decision on this project is appealable to the Monterey County Planning Commission.

EVIDENCE: (a) Section 21.80.040. A of the Monterey County Zoning Ordinance Title 21 (Planning Commission)

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

1. Determine that the project is Categorically Exempt per Section 15304 (e) Class 4 (**Exhibit C**), and
2. Approves the Use Permit in general conformance with the attached sketch (**Exhibit D2**) and subject to the conditions (**Exhibit C 2**), both exhibits being attached hereto and incorporated herein by reference as described above, based on the Findings and Evidence and subject to the recommended Conditions (**Exhibit C 2**).

PASSED AND ADOPTED this 9th day of December 2010.

Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE [DATE]

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

4. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

RESOLUTION EXHIBIT C 2 Monterey County Resource Management Agency Planning Department Condition Compliance and/or Mitigation Monitoring Reporting Plan	Project Name: <u>Larry A. Homen</u> File No: <u>PLN090297</u> APNs: <u>420-091-035-000</u> Approved by: <u>Zoning Administrator</u> Date: <u>December 9, 2010</u>
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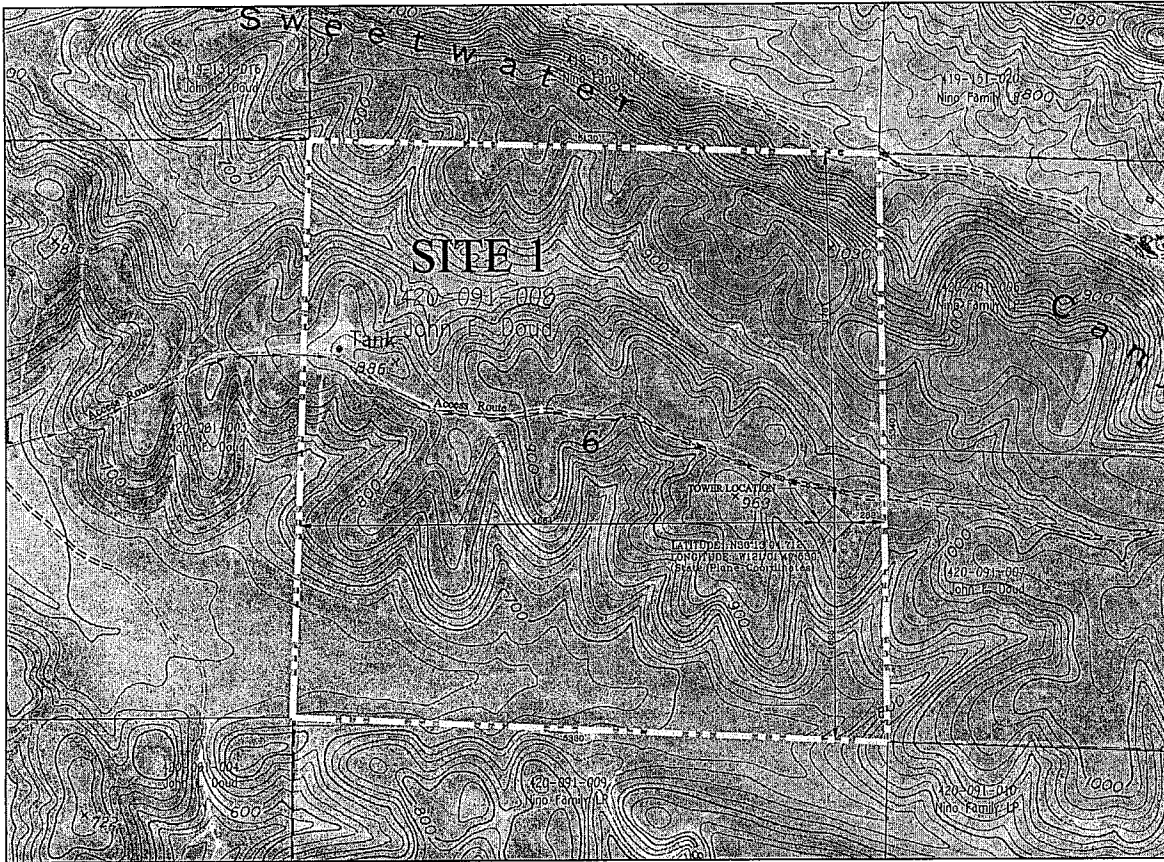
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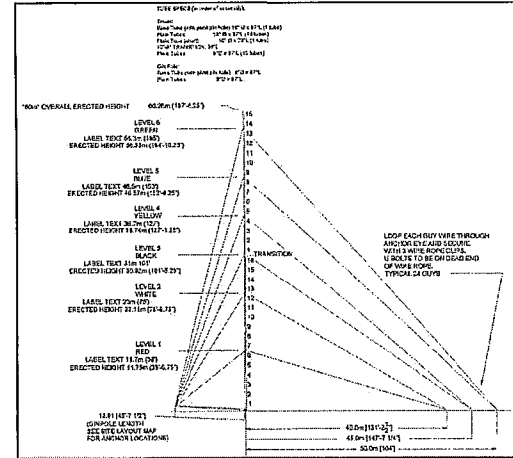
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END OF CONDITIONS



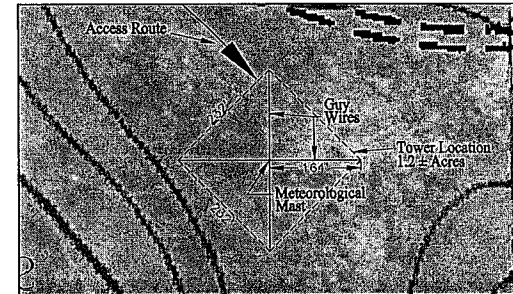
Site 1 Plan with Aerial Photo

Scale: 1"=500'



Elevation

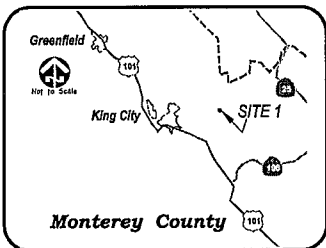
Not to Scale



Tower Location

Scale: 1"=100'

VICINITY MAP



PROJECT INFORMATION

SITE DESCRIPTION: Section 6, Township 20 South, Range 9 East, Monterey County, State of California 4.6 Miles East of King City	ENGINEER: MacKay & Somp 1553 Burke Road, #100 Roseville, CA 95661 (916) 773-1189
ASSESSOR'S PARCEL NO.: 420-091-008-000	SITE ADDRESS: Lonoak Road King City, CA
OWNER: John E. Doud 134 Pine Canyon Road Salinas, CA 93908	EXISTING USE: Agricultural
APPLICANT: E.ON Climate & Renewables North America, Inc. 220 West Main Street Louisville, Kentucky 40202	PROPOSED USE: Agricultural
Applicant Contact: Michael Radford 1960 Blake Street, Suite 100 Denver, CO 80226 (303) 295-0438 mradford@eon.com	EXISTING ZONING: PG-40 PROPOSED ZONING: PG-40
	OWNERSHIP ACRES: 612.74 acres (gross) TOWER LOCATION: 1.26 acres (gross)
	PLANNING PROJECT NUMBER: PLN090296

**Lonoak Road - Doud
Site Plan & Elevation**
**E.ON Climate & Renewables
Meteorological Mast**
Monterey County, California
January, 2010

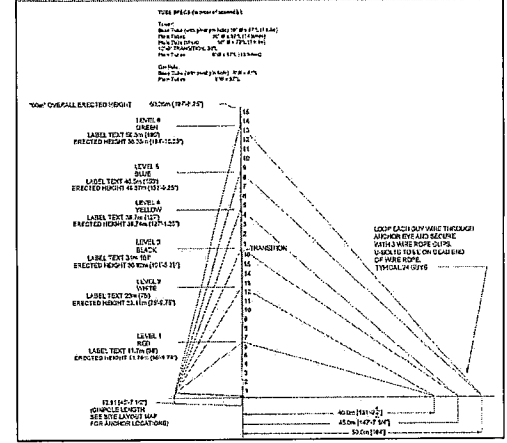
MACKEY & SOMPS
CIVIL ENGINEERS, INC.
ROSEVILLE, CALIFORNIA (916) 773-1189

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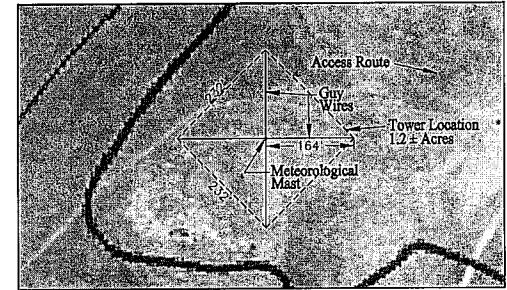
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1/10/2010 10:15:15 AM
User: mradford



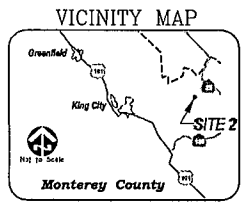
Site 2 Plan with Aerial Photo
 Scale: 1"=500'



Elevation
 Not to Scale



Tower Location
 Scale: 1"=100'



PROJECT INFORMATION	
SITE DESCRIPTION: Section 11, Township 30 South, Range 9 East, Monterey County, State of California 4.8 Miles N/E of San Lucas	ENGINEER: Mackay & Somp 1552 Burkus Road, #100 Riverside, CA 92501 (916) 773-1189
ASSESSOR'S PARCEL NO.: 420-091-015-000	SITE ADDRESS: Wild Horse Road King City, CA
OWNER: Lory A. Homan PO Box 7 King City, CA 93930	EXISTING USE: Agricultural PROPOSED USE: Agricultural
APPLICANT: E.ON Climate & Renewables North America, Inc. 220 West Main Street Louisville, Kentucky 40202	EXISTING ZONING: PG-40 PROPOSED ZONING: PG-40
Agreement Contact: Michael Radford 1960 Blake Street, Suite 100 Denver, CO 80202 (303) 295-0458 michael.radford@eon.com	OWNERSHIP ACRES: 640± acres (gross) TOWER LOCATION: 1.2± acres (gross) PLANNING PROJECT NUMBER: FLN090297

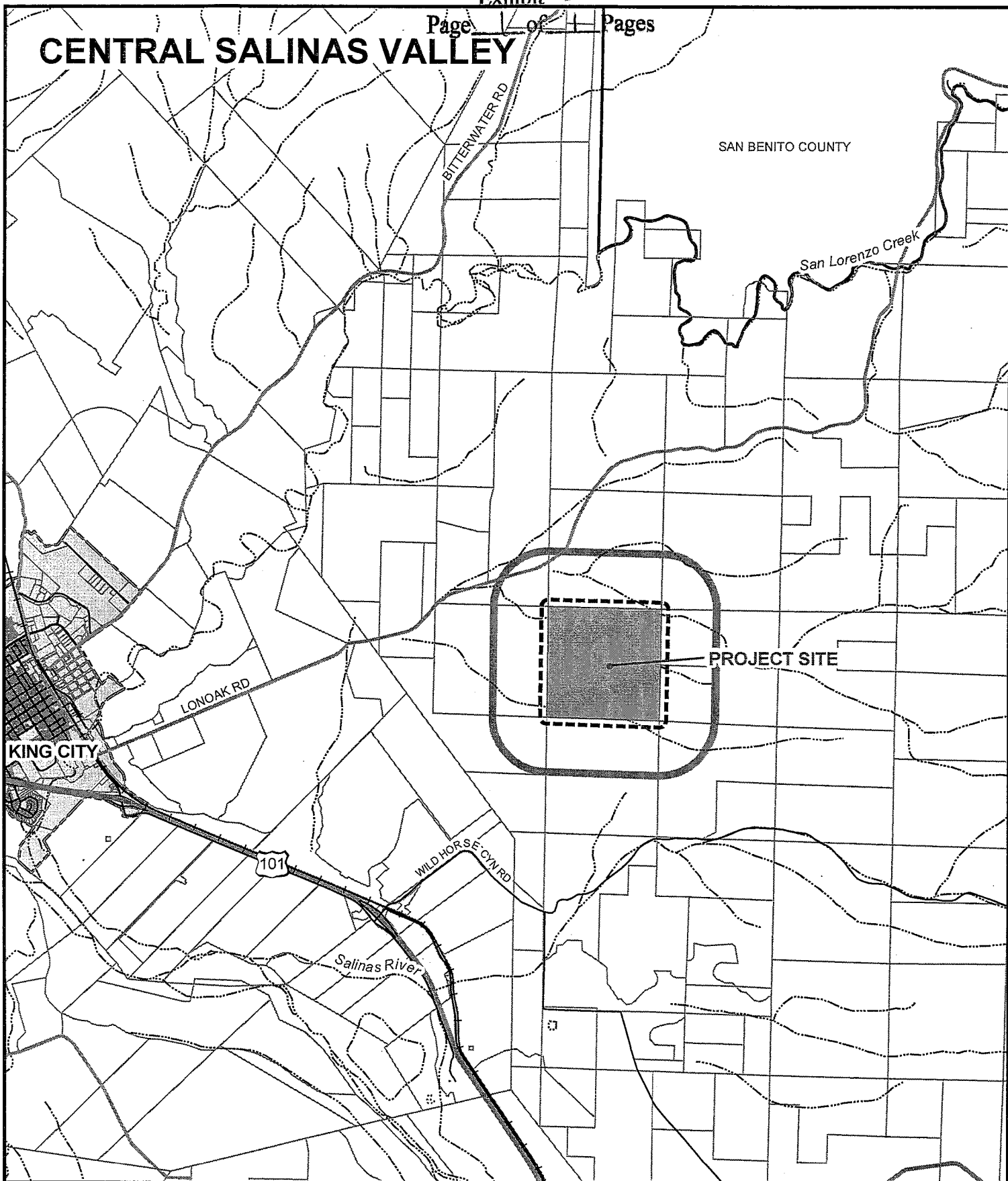
Wild Horse Road - Homen
Site Plan & Elevation
E.ON Climate & Renewables
Meteorological Mast
 Monterey County, California
 January, 2010

MACKAY & SOMPS
 CIVIL ENGINEERS, INC.
 1552 BURKUS ROAD, RIVERSIDE, CALIFORNIA 92501
 (916) 773-1189

7997-MCH

This is NOT an official County document!
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CENTRAL SALINAS VALLEY

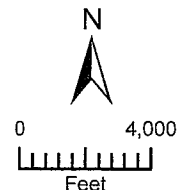


APPLICANT: DOUD

APN: 420-091-008-000

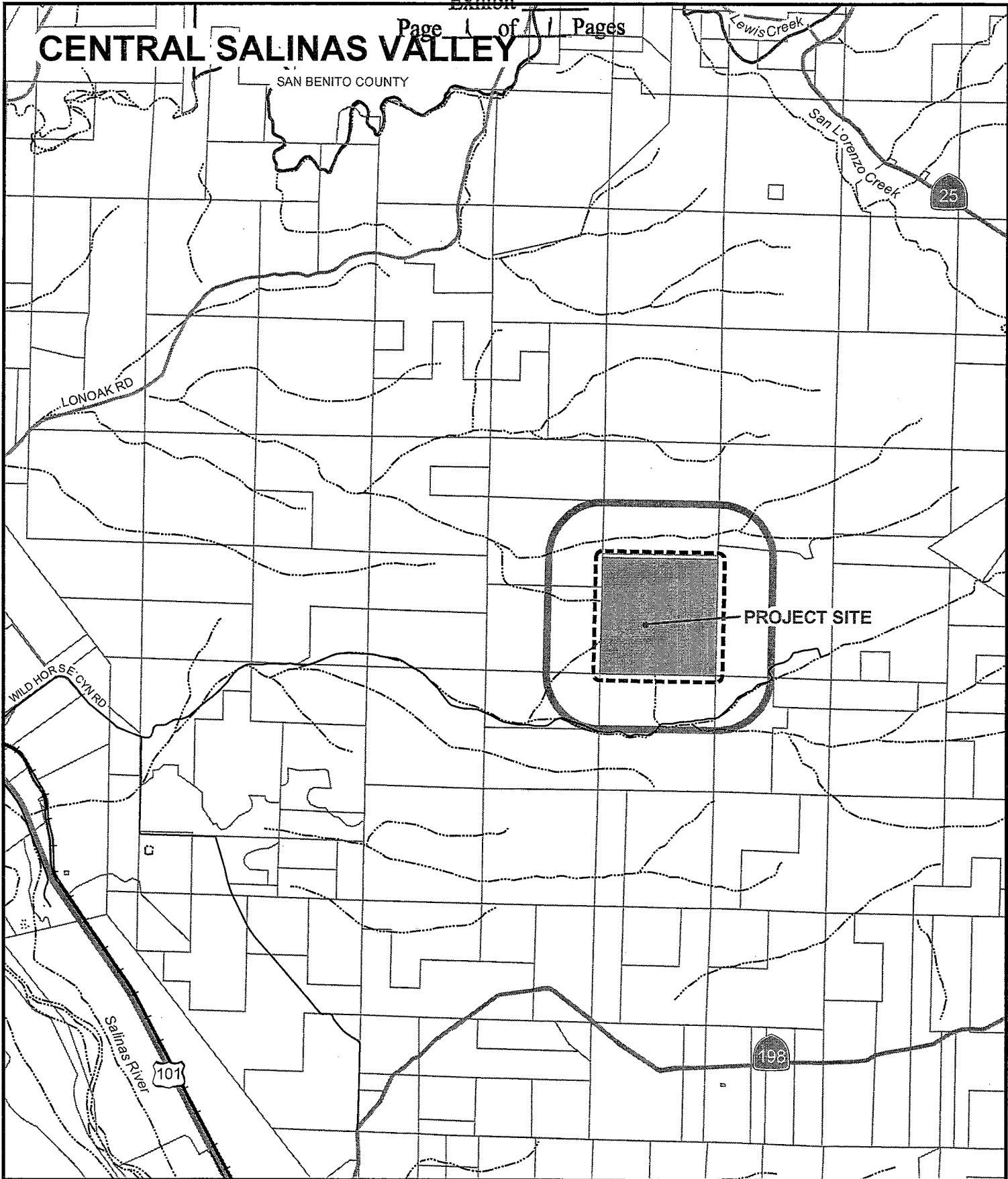
FILE # PLN090296

 300' Limit
 2500' Limit
 City Limits
 ~~~~~ Water



# CENTRAL SALINAS VALLEY

SAN BENITO COUNTY



APPLICANT: HOMEN

APN: 420-091-035-000

FILE # PLN090297

  300' Limit    
   2500' Limit    
   City Limits    
 ~~~~~ Water

