

**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. 10-051**

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 tower) to collect wind and
other meteorological data for a period not to
exceed 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 property is located at Section 6, Township 20 South, Range 9 East, in the County of Monterey, located off Lonoak Road 4.6 miles east of King City, (APN: 420-091-008-000) in the County of Monterey Central Salinas Valley Area. The parcel is zoned: "PG/40" Permanent Grazing 40 acres per unit.
 - (c) Based on information and materials provided, plus Staff site visit conducted in July 21, 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:

1. Height The Meteorological Pole tower may be constructed to a greater height than the limit established in the "Permanent Grazing" zoning district. A use permit making an exception to height must first be secured, per Section 21.62.030 B. The proposed pole tower is limited to a maximum height of 197 feet or 60 meters
 2. Site 1 location of temporary pole tower (Lonoak Road). The proposed setbacks of the tower are 282 feet from the east end of the property, 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. 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-tower. This would not notably increase or exceed the 5% maximum site coverage allowed on the 612-acre parcel.
- (f) The project is located within an area identified as visually sensitive; however, due to topography it is likely that the tower would not be visibly discernible 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 tower 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 on July 21, 2009, to verify that the site is suitable for this use.
- (c) Materials in Project File PLN090296.

3. 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 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 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 tower is 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 tower. Additionally because the tower incorporated bird strike avoidance measures, the County recognizes that the proposed affixed tower 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, 2010.
- (f) See preceding and following findings and supporting evidence.

- 4. 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 #5 and supporting evidence.

- 5. 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: 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.

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

EVIDENCE: 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, and
2. Approve the Use Permit in general conformance with the attached sketch and subject to the conditions, both being attached hereto and incorporated herein by reference as described above.

PASSED AND ADOPTED this 9th day of December 2010.



Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE **DEC 13 2010**

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 **DEC 23 2010**

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.

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

RESOLUTION No. 10-051
Monterey County Resource Management Agency
Planning Department
Condition Compliance and/or Mitigation Monitoring
Reporting Plan

Project Name: JOHN E. DOUD AND E. ON CLIMATE AND
RENEWABLE NORTH AMERICA INC

File No: PLN090296

APNs: 420-091-008-000

Approved by: Zoning Administrator

Date: December 9, 2010

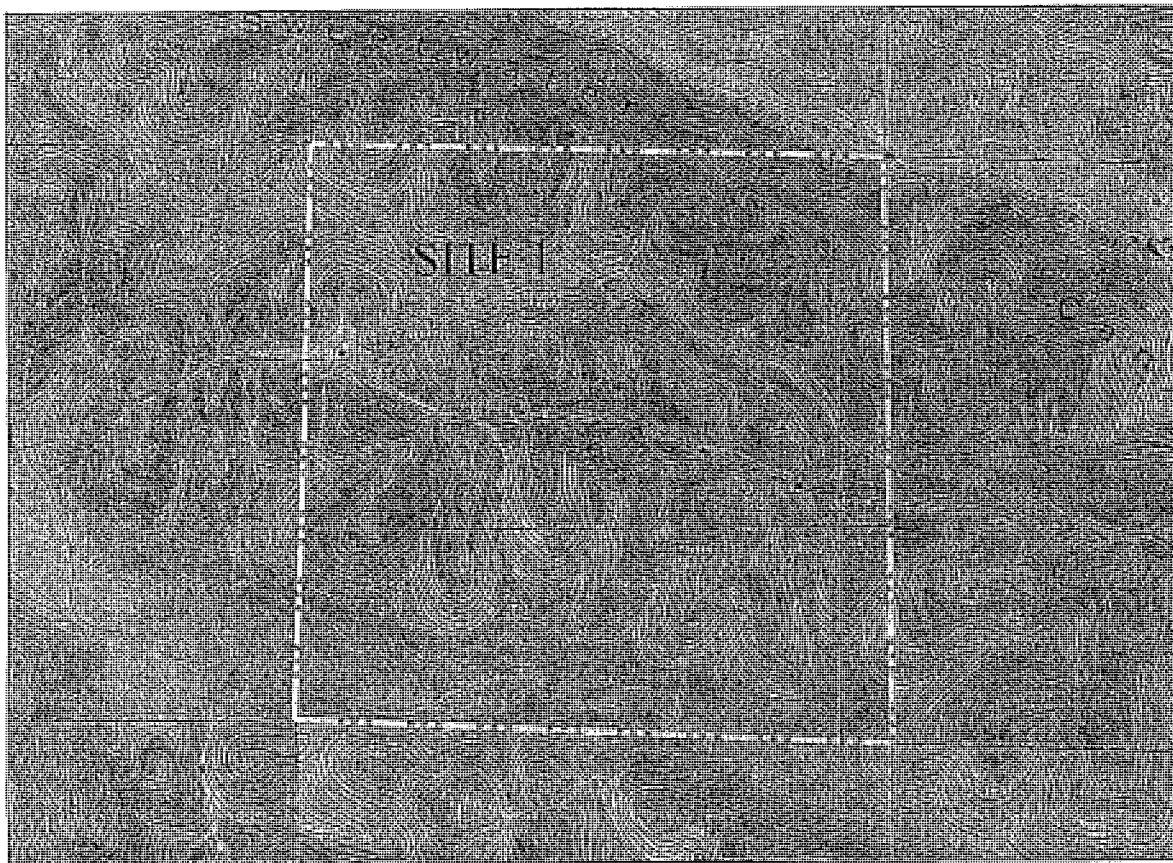
**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<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.		PD001 - SPECIFIC USES ONLY This Use Permit allows 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)	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other-wise stated	

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	<p>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</p>
3.	<p>PD002 - NOTICE-PERMIT APPROVAL</p> <p>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)</p>	<p>Proof of recordation of this notice shall be furnished to the RMA - Planning Department.</p>	Owner/ Applicant	<p>Prior to the issuance of grading and building permits or commencement of use.</p>

4.	SPD03 - PERMIT TIME/YEAR & DATE The use permit shall be granted for a period of three years, from commencement of use. (RMA – Planning Department)	The RMA-Planning Department shall track from the commencement of use or the final of building permit, whichever occurs first, the activities of meteorological data collection which shall not exceed a three year period.	Owner/ Applicant	RMA
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.
6.	SPD002 – NON STANDARD CULTURAL RESOURCES 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)	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.	Owner/ Applicant/ Archaeologist	Ongoing
7.	SPD004 – AVOIDANCE SAFETY MEASURES. The applicant shall provide evidence <i>that standard avoidance measures have been installed on the guy wires.</i> (RMA – Planning Department and Building Services Department)	The applicant shall provide (photographic evidence)), <i>that the County approved avoidance measures have been installed on the and the guy wires of the tower, prior to final building inspection</i>	Owner/ Applicant/ Engineer	Prior to the final inspection

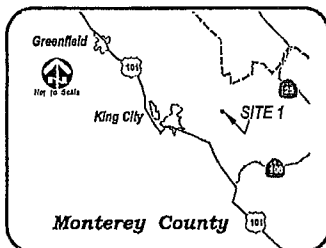
END OF CONDITION



Site 1 Plan with Aerial Photo

Scale: 1"=500'

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

ASSESSOR'S PARCEL NO.: 430-091-008-000

OWNER: John E. Doud
154 Elm Canyon Road
Salinas, CA 93908

APPLICANT: E.ON Climate & Renewables North America, Inc.
210 West Main Street
Louisville, Kentucky 40202

APPLICANT CONTACT:
Michael Redford
1900 Blake Street, Suite 100
Denver, CO 80026
(303) 291-0418
michael.redford@eon.com

ENGINEER: MacKay & Somp
1533 Bunka Road, #100
Roseville, CA 95661
(916) 773-1189

SITE ADDRESS: Lonoak Road
King City, CA

EXISTING USE: Agricultural

PROPOSED USE: Agricultural

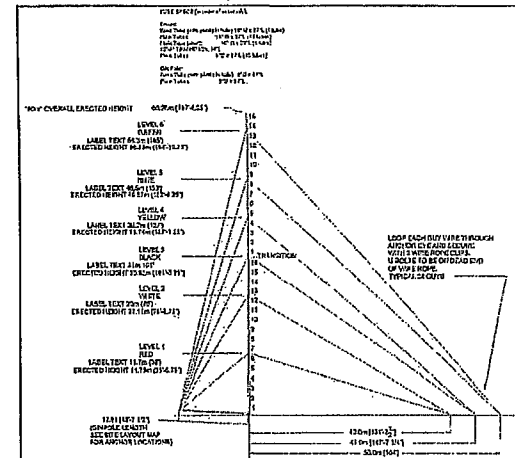
EXISTING ZONING: PG-40

PROPOSED ZONING: PG-40

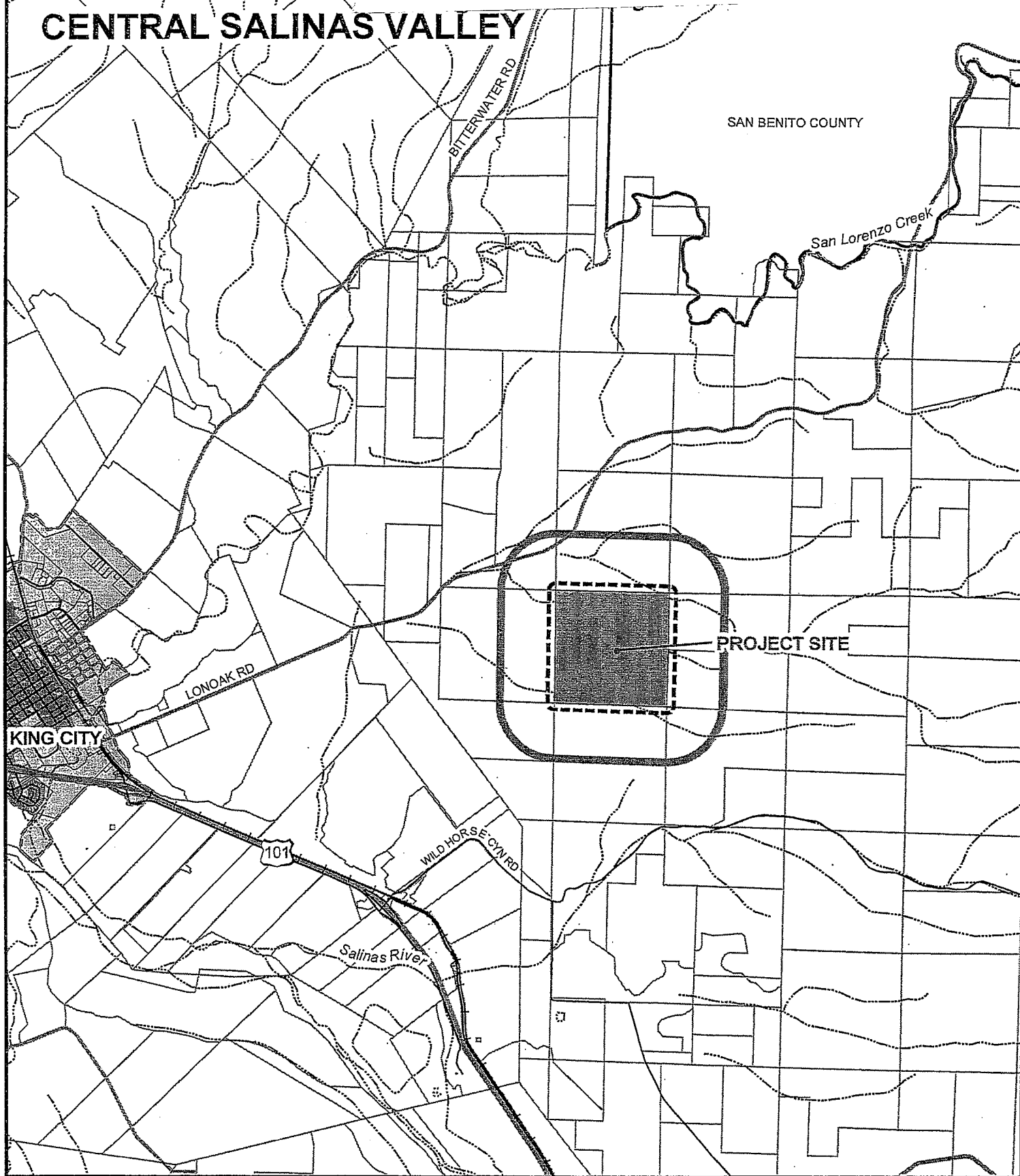
OWNERSHIP ACRES: 613.76 acres (gross)

TOWER LOCATION: 1.28 acres (gross)

PLANNING PROJECT NUMBER: PLN990286



CENTRAL SALINAS VALLEY



SAN BENITO COUNTY

San Lorenzo Creek

PROJECT SITE

KING CITY

LONOAK RD

101

WILD HORSE CYN RD

Salinas River

APPLICANT: DOUD

APN: 420-091-008-000

FILE # PLN090296

300' Limit

2500' Limit

City Limits

Water



0 4,000
Feet



PLANNER: MONTANO

PROOF OF SERVICE

I am employed in the County of Monterey, State of California. I am over the age of 18 years and not a party to the within action. My business address is 168 W. Alisal Street, 2nd Floor, Salinas, California.

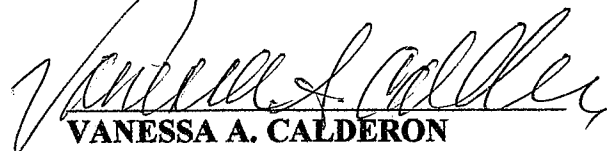
On Monday, December 13, 2010 I served a true copy of the following document:

- RESOLUTION NO. – 10-051 JOHN E. DOUD &E, ON CLIMATE & RENEWABLES NORTH AMERICA INC. (PLN090296)
- NOTICE OF APPEAL AND INSTRUCTIONS

on the interested parties to said action by the following means:

- [] **(BY HAND-DELIVERY)** By causing a true copy thereof, enclosed in a sealed enveloped, to be hand-delivered.
- [✓] **(BY MAIL)** By placing a true copy thereof, enclosed in a sealed envelope, for collection and mailing on that date following ordinary business practices, in the United States Mail at the Resource Management Agency Planning Department, 168 W. Alisal Street, 2nd Floor, Salinas, California, addressed as shown below. I am readily familiar with this business's practice for collection and processing of correspondence for mailing with the United States Postal Service, and in the ordinary course of business, correspondence would be deposited with the United States Postal Service the same day it was placed for collection and processing.
- [] **(BY OVERNIGHT DELIVERY)** By placing a true copy thereof, enclosed in a sealed envelope, with delivery charges to be billed to the Resource Management Agency, Planning Department, to be delivered by Overnight Delivery.
- [] **(BY FACSIMILE TRANSMISSION)** By transmitting a true copy thereof by facsimile transmission from facsimile number (831) 757-9516 to the interested parties to said action at the facsimile number(s) shown below.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on Monday, December 13, 2010, at Salinas, California.


VANESSA A. CALDERON

Place address(es) mailed to here:

APPLICANT:

**JOHN EDWARD DOUD TR
134 PINE CANYON ROAD
SALINAS, CA 93908**