

ANTELOPE COUNTY COMMISSIONERS

Thunderhead Wind Energy Conditional Use Permit

RESOLUTION #2018-12- 0009

WHEREAS, the duly appointed Planning Commission of Antelope County, Nebraska, has given public notice as required by the Nebraska State Statutes, of a hearing held on the 23rd day of October, 2018, at the Antelope County Courthouse on the Conditional Use Permit application #CUP1802 from Thunderhead Wind Energy LLC for up to 137 wind turbines and will total no more than 300 MW of capacity located in Stanton, Elgin, Ord, Clearwater, Lincoln, and Logan Townships in Antelope County, Nebraska; and

WHEREAS, the public hearing has been held pursuant to said notice and all statements received at the hearing have been duly considered by the Planning Commission;

WHEREAS the Antelope County Planning Commission has reviewed the application and make recommendation to the Antelope County Board of Commissioners for approval with conditions;

AND WHEREAS the Antelope County Board of Commissioners has given public notice as required by the Nebraska State Statutes, of a hearing held on the 4th day of December, 2018, at the Antelope County Courthouse in Neligh, Nebraska;

THEREFORE, BE IT RESOLVED BY THE ANTELOPE COUNTY BOARD OF COMMISSIONERS, THAT THE THUNDERHEAD WIND ENERGY LLC CONDITIONAL USE PERMIT #CUP1802 BE APPROVED WITH THE FOLLOWING CONDITIONS:

1. This Conditional Use Permit shall run with the land. The ownership of the land and the identity of the developer and operator of the Use shall not affect the right to conduct the Use in accordance with this Conditional Use Permit. In the event the Project is constructed in phases, Thunderhead may submit notice to Antelope County detailing the project company which will own that phase and the size of each Project phase.
2. Except where necessary, equipment used for Project construction will be located outside of the County Road Right-of-Way so as not to present a public safety hazard. Where it is necessary for equipment to be located within the County Road Right-of-Way, it will only be for such minimal period of time as necessary, and the Project will remove such equipment and materials from the Road Right-of-Way as soon as work within the Road Right-of-Way is complete.
3. The Conditional Use Permit shall permit the Use on the parcels as identified on Exhibit B Participating Landowner List. Upon the filing of a memorandum with the Antelope County register of deeds documenting a lease on new land which is within the Project Area but not currently under lease, the Conditional Use Permit shall be automatically amended to apply to such property and the updated Participating Landowners List shall be supplied to the Zoning Administrator.
4. Section 8.08.05 of the Antelope County Zoning Regulations as amended in March of 2018 shall constitute the setback requirements applicable to the Project. Any applicable property line setback does not apply when adjoining properties are within the Project Area and also under lease or other agreement with the subject landowner, including additional land recorded with the register of deeds added within the project area, as described in the proposed Condition #3.
5. Turbines shall not move more than 900 feet in any direction from the specific proposed location in Exhibit A and shall be sited on parcels identified in the Participating Landowner List (See Condition #3.) All County zoning setbacks and conditions of this permit will apply and must be met in order to place turbines on the Property. To the extent the Project needs to build any Tower/Wind Turbine as part of this Wind Energy Conversion System that is outside the 900 feet from any specific proposed Tower/Wind Turbine location set forth in Exhibit A, the Project will be required to seek separate authorization from the County in the form of a permit amendment for that Tower(s)/Wind Turbine(s), by following the notice requirements of Section 5.03-2 of the County's zoning regulations, as applicable.
6. All turbines will be installed with a Winter Ice Operation Mode (WIOM) control algorithm for the Turbine Control Software and will thusly meet the requirement for reduced setbacks in section 8.08.05.
7. All turbines shall adhere to the Special Safety and Design Standards in Section 8.08.06
8. To the extent any non-participating landowner within the Project Area intends to build a new dwelling unit within the 2400-foot setback or 3500-foot Clustered Limitation required by Section 8.08.04 and 8.08.05 of the zoning regulations, the Project agrees not to object to the landowner obtaining a Zoning Permit from the County for said dwelling. To the extent that such dwelling unit is built within the setback, the Project will be deemed in compliance with the Commercial/Utility WECS regulations.

000621

- 9. Thunderhead shall be allowed to cross or run parallel to any County Roads within the Project Area utilizing the Road Right-of-Way wherever necessary for the Project's ancillary facilities, including aerial construction or burial of components of the electrical collection and fiber-optic system (including overhang or line-sway of aerial lines located on adjacent private property), provided such crossing or use of Road Right-of-Way shall be in compliance with Antelope County's Criteria for Permit to Use Road Right-of-Way and appropriate County Permits are acquired.
- 10. Zoning Permits shall be issued for each individual turbine, approved in this Conditional Use Permit, on or before December 11th, 2020. It is further understood that each Zoning Permit shall expire two years from the date of issuance if said turbine is not constructed.
- 11. Prior to issuance of Zoning Permits for construction of turbines:
 - a. A Roads Use Agreement and Decommissioning Plan shall be approved by the County Board. The Roads Use Agreement shall include the implementation of a special monetary assessment (i.e. \$2,500.00/per mile, per day) to be assessed by the County Board against the Applicant its assigns or heirs, and/or its agents or subcontractors to offset damages to the roads under the Roads Use Agreement as a result of the Applicants, its assigns or heirs, and/or its agents or subcontractors breach of any provision of the Roads Use Agreement.
 - b. A final site plan will be required to be submitted to the Zoning Administrator in order to demonstrate compliance with the clustering requirement in Section 8.08.04 #5 of the Zoning Regulations and Condition #5.
 - c. The Planning Commission shall review the final site plan before zoning permits are issued. This review will not be done at a public hearing.
 - d. Any environmental permits required by law to be in place prior to commencement of construction shall be obtained, and copies will be provided to the Zoning Administrator.
 - e. Applicable Driveway Permits, shall be approved by the County Board.
 - f. Thunderhead shall provide exact final global positioning system locations to the Zoning Administrator and the County Assessor for each Tower/Turbine
 - g. A detailed site plan shall be submitted for individual towers and meteorological towers showing that said tower(s) complies with all applicable setbacks.
 - h. An acoustical analysis showing that the noise regulations can be met, notice to the National Telecommunication and Information Administration (NTIA), and FAA Determination of No Hazard shall be provided.
 - i. A \$500 fee for each individual turbine's Zoning Permit shall be paid.
- 12. Signs shall be posted at the Right-of-Way of each driveway for access to the towers giving the tower numbers, address, and Project name.
- 13. Within 24 months of completion of any phase of the Wind Energy Conversion System, the Project will be required to perform a sound analysis demonstrating the Project is following Section 8.08.06-13 of the County's zoning regulations.

Adopted this 11th day of December, 2018 at Neligh, Antelope County, Nebraska.

Commissioner: Schwager
Moved to adopt said Resolution

Commissioner: Jacob
2nd to the Motion to adopt said Resolution

Roll Call: 4 Yea - Nay 1 Kerkman Abstain
Resolution adopted, signed and billed as adopted.

ANTELOPE COUNTY BOARD OF COMMISSIONERS

Jerald Schwager
Jerald Schwager, Dist. #1, Chairman

Edmund Schindler
Edmund Schindler, Dist. #3

LeRoy Kerkman
LeRoy Kerkman, Dist. #5, Chairman

Eli Jacobs
Eli Jacobs, Dist. #2

Charles Henery
Charles Henery, Dist. #4

ATTEST:
Lisa Payne
Lisa Payne, Antelope County Clerk

