

Storey  County  
**Planning Commission**

Virgil Bucchianeri, *Chairman*  
Lydia Hammack, *Vice-Chairman*

**Holli Kiechler ~ Peter Maholland ~ Larry Prater ~ Bret Tyler ~ Doug Walling**

**MINUTES OF 19 FEBRUARY 2009**

**MEMBERS PRESENT:**

Virgil Bucchianeri, Lydia Hammack, Holli Kiechler, Larry Prater and Bret Tyler.

**MEMBERS ABSENT:**

Peter Maholland and Doug Walling

**OTHERS PRESENT:**

Planner, Austin Osborne; County Manager, Pat Whitten; and RTC Vice-Chairman, Bill Sjovangen

**CALL TO ORDER:**

With a quorum present, Chairman Virgil Bucchianeri called the meeting to order at the Storey County Courthouse at 6:00 P.M.

**Pledge of Allegiance**

**APPROVAL OF AGENDA FOR February 19, 2009**

Planner Osborne requested that application 2009-036 be continued as it was not ready to be heard due some issues being resolved. Larry Prater made a motion to approve the agenda with application 2009-036 being continued. Lydia Hammack seconded the motion and with no further discussion, all voted aye and the motion carried.

**Approval of Minutes for February 5 2009**

Larry Prater made a motion to approve the minutes. Holli Kiechler seconded the motion, and with no further discussion three voted aye with Bret Tyler abstaining and the motion carried.

**2009-034 SPECIAL USE PERMIT:** By TRI/Fulcrum BioEnergy

TRI

The applicant is requesting a Special Use Permit for the production of waste products into ethanol on APN 004-153-69. The applicant currently has SUP 2007-062 for APN 004-152-96 for same usage. The applicant is just changing location for project.

Planner Osborne reminded the Planning Commissioners that a Special Use Permit had already been issued to IMS back in April of 2008. IMS sold to Fulcrum BioEnergy, who then took over the original Special Use Permit. Since the Special Use Permit goes with the land and Fulcrum is purchasing a larger lot across the street in TRI from current location, the company must to secure the new Special Use Permit. The original conditions are exactly the same with only minor updates.

Jeanne Benedetti representing Fulcrum Bio Energy spoke on their project and that they hoped to start building during the first quarter of 2010. She also requested that if the Planning Commission approved the application that it could be moved on to the Commissioners prior to approval of the Planning Commission Minutes.

Bret Tyler made a motion to approve the application with all the conditions listed in the staff report and move on to the County Commissioners prior to approval of the Planning Commission minutes.

1. The intent of this special use permit is to ensure compliance with county regulations and to provide a new technology of Plasma Enhanced Melter (PEM<sup>TM</sup>) system to gasify Feedstock and recycle it into useful products (e.g., methanol, ethanol, synthetic diesel, hydrogen, and others) and energy.
2. That the construction and operation of the project comply with all state, federal and local agency regulations.

3. The Commission finds that the capacity of the subject site to be of adequate size and physical suitability to accommodate the proposed use, including areas of expansion, and this special use permit authorizes expansions that are consistent with the use described in this permit and that comply with all otherwise applicable laws and regulations as long as Storey County departments have the capacity for oversight and control of expansion.
4. This special use permit covers the entire “Subject Property” shown on the TRI Center map (Lot 2008-13) for the purpose of constructing a facility to recycle Feedstock into syngas and using the syngas to produce products or as fuel.
5. This special use permit shall not be construed to be a permit for design or construction. A separate Storey County plan review, fire safety review, and building permit will be required. A Nevada Division of Environmental Protection air quality control permit must be obtained for the project. A copy of the NDEP air quality permit shall be forwarded to Storey County Planning for inclusion with SUP 2009-028. If there is a violation of NDEP permit, Storey County shall be notified of the violation, corrective action to be taken and date to be completed.
6. Issuance of this permit does not convey property rights of any sort or any exclusive privilege; nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of state or local laws or regulations.
7. This permit shall inure to the record owner of the Subject Property and to the permit applicant (Fulcrum Sierra BioFuels, LLC) and shall run with the land. This permit, subject to its terms and conditions, may be transferred by the permit holder, its successors, heirs or assigns. The record owner may lease the land; however, the record owner is ultimately responsible for compliance with permit regulations. Any/all transfers of SUP. 2009.028 shall be advised in writing by certified mail to Storey County Community Development Department, P.O. Box 526, Virginia City, NV 89440, 90 days prior to assignee taking over operation of facility. The operators of the facility must sign and accept all stipulations and requirements of SUP 2009.028.
8. This permit incorporates by reference the standards, objectives, conditions, terms and requirements of the operating plan, safety plan, training plan, waste management plan, and closure plan, to be submitted separately from this permit. The requirements of all submitted plans become part of this special use permit as ongoing, updateable working documents.
9. The permit holder warrants that the future use of land will conform to the requirements of the County of Storey, State of Nevada, and applicable federal regulatory and legal requirements for a Plasma Enhanced Melter facility; further, the permit holder warrants that continued and future use of the land shall so conform. The permit holder, its assigns, heirs or successors, agrees to hold the county, its officers, and representatives harmless from the costs associated with any environmental damage, environmental liability, and any/all other claims now existing or which may occur as a result of this special use permit.
10. The permit holder, as well as its assigns, heirs or successors, shall provide proof of insurance to Storey County and maintain a satisfactory liability insurance for all aspects of this operation under Special Use Permit # 2009-028 for a minimum amount of \$5,000,000.00 (five million dollars).
11. That esthetically acceptable screening of a minimum 8’ fence (chain-link with slats or solid) plus 3-strand barbed wire enclosing all developed property. A screening plan, including plants and trees, shall be submitted to the Storey County Community Development Department for approval and must be maintained and sustained.

12. Lighting plans shall be designed to provide necessary operation, but not be over obtrusive to avoid safety hazard(s) for Peru Drive traffic and/or light pollution.
13. Whenever Nevada law requires the payment of a sales and/or use tax, all materials and equipment purchased or rented for this project should be received in Storey County and the value reported as 'county-of-delivery' on the Nevada Dept. of Taxation form TXR -01.01 'Sales/Use Tax Return'. Proof of appropriate reporting is required prior to a 'Certificate of Occupancy' being issued.
14. The commission considered the review of its staff, comments, submittals and reports of the permit applicant and parties of interest, and the general public in the preparation of and approval of this permit.
15. Special Use Permit 2009-028 incorporates by reference all the documents submitted as support information and such information becomes part of SUP 2009-028 (see **List of Enclosures**).
16. This permit is subject to terms and conditions that are necessary to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within this jurisdiction and certain equipment specifically regulated herein.
17. For the purposes of this special use permit, the term "Subject Property" means Parcel 2008-13, which is approximately 16.7 acres located in the I-2 Heavy Industrial Zone on the west side of Peru Drive, with an address of 3600 Peru Drive, McCarran, Nevada 89434.
18. The permit holder shall provide and/or pay for any special training for Storey County Fire Department (SCFD), if any, that is required due to the operation of the PEM™ facility, including training to combat methanol and ethanol type fires.
19. The permit holder shall either install a foam suppression system or shall become a member of a the local foam trailer coalition by purchasing or providing funding for the purchase of a tow vehicle for the County's use that is dedicated exclusively to pulling the foam trailer (the tow vehicle shall be a 2-½ ton Top Kick GMC or similar capacity vehicle (approximate cost \$60,000.00), and shall be funded or provided prior to, and this obligation is contingent on, startup of the facility authorized by this SUP).
20. The permit holder shall construct and provide a stand-alone response shed for the Fire Department on site as specified by Storey County Fire Department.
21. The permit holder shall provide a cache of ARAFF type foam on-site (quantity amount must be approved by Storey County Fire Department).
22. The permit holder shall submit an emergency response plan with engineering from an approved Fire Prevention Engineer with chemical engineering background.
23. The permit holder shall submit Material Safety Data Sheets (MSDS) and pertinent safety information for further review.
24. Buildings shall be equipped with ESFR type sprinkler system.
25. The permit holder will be subject to all further requirements established by Storey County ordinance and any other applicable codes or regulations after further review of project plans.
26. The permit holder shall construct containment systems in areas where waste is being stored or processed to prevent spills, if any, from entering the environment.
27. No radioactive waste may be located on the premises or processed in the PEM™ systems located on the Subject Property.

28. In the event that the use authorized by this special use permit is abandoned for a period of more than twenty-four (24) calendar months from the date of last producing operations, this permit shall become null and void and a new special use permit shall be required. In the event of a force majeure such as and not limited to a flood, damage or destruction of the access to the site, earthquake, or other events beyond the control of the county or permit holder, the period of abandonment shall not be deemed to commence until such time as the permit holder may be found to once again have reasonable access to the site. In this connection, the permit holder shall reasonably attempt to establish access to the site.
29. This permit shall remain valid as long as the permit holder, its heirs, assigns, or successors remain in compliance with the terms of this permit and county, state and federal regulations.
30. In the event that the permit lapses or the use is discontinued or abandoned, the permit holder, its heirs, assigns or successors shall remain responsible for environmental monitoring and post-closure maintenance.
31. The permit holder shall be responsible for the cost for the closure of this facility as permitted under Special Use Permit number 2009-028. Complete closure shall consist of providing reclamation that would eliminate any hazardous or environmental damage to the existing site or adjacent areas contaminated by operations.
32. Should any prehistoric or historic remains/artifacts be discovered during development or excavation, work shall temporarily be halted at the specific site of the discovery, and the Storey County Board of Commissioners shall be notified in order to evaluate said site and, if deemed necessary, to record and photograph the site in question. The period of temporary delay shall be limited to a maximum of two working days from the date of notification, unless it is a significant find and it is deemed necessary to provide more time to evaluate and protect historical remains or artifacts. Please call 847-0968.
33. The permit holder shall provide a 'Will Serve' letter from Tahoe-Reno Industrial Center G.I.D. to Storey County Community Development Department for the necessary water and sewer to operate the facility.
34. There shall be no obnoxious odors released into the air that are a nuisance to abutting properties.
35. Building has been approved for a height of up to 90 feet excluding the stacks.

**B. ENVIRONMENTAL MONITORING AND PUBLIC HEALTH AND SAFETY:**

1. The permit holder shall continuously conform to the requirements of this special use permit and the submitted plans that are incorporated as part of this permit.
2. Before the operation of a PEM<sup>TM</sup> commences, the permit holder shall submit to Storey County a copy of the environmental monitoring requirements applicable to the facility under the environmental permits issued for the facility. The permit holder shall include storm water management measures on its site plan which shall be submitted to Storey County Community Development Department for approval.
3. Air emissions from the facility shall meet the Nevada Division of Environmental Protection permit requirements. Copies of the annual reports of environmental quality, necessary to comply with the requirements of the permit issued by the Bureau of Air Pollution Control, Nevada Division of Environmental Protection shall be submitted to Storey County Community Development Department. In the event that there is an air discharge in excess of the standards approved by NDEP under the construction or operating permit, the permit holder shall provide

Storey Community Development Department a copy of any notice of the event or plan to remediate the event submitted to NDEP. If the permit holder is required by the Bureau of Air Pollution Control, Nevada Division of Environmental Protection to prepare a report on the event, the permit holder shall submit a copy of the report to Storey County Community Development Department.

4. Noise monitoring: The permit holder must submit test results to prove that the noise level of operations are in compliance with Storey County Code, “Chapter 8.04.020 Restrictions”, which reads as follows:
  - A. It is unlawful for any person to make, or cause to be made any loud, unnecessary or unusual noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.
  - B. The following acts, as delineated in Section 8.04.030, but not limited thereto, shall be subject to measure as shown in the table in this subsection.
    1. The maximum sound pressure level radiated by any use or facility when measured at each boundary line shall not exceed these values:

<u>Octave Band Range in</u> <u>Cycles per Second</u>	<u>Sound Pressure Level in</u> <u>Decibels – 0.0002 Dyne per Cm.<sup>2</sup></u>
500 -- 1800	84
    2. Sound pressure level shall be measured with a sound level meter conforming to standards prescribed by the American Standards Association including any subsequent amendment or approved revision thereof.
  - C. No provision of this section shall be held to apply to aircraft operation or temporary construction work. (Ord. 75A §§1, 2, 3, 1985; Ord. 75B §§1, 2, 1985)\*
5. All process drains around each unit and site drainage shall be designed to prevent the discharge of oils to the sewer and or storm drain systems. All site drainage shall be designed as not to adversely impact surrounding property owners.
6. Any hydrocarbon or environmental spill incidents required to be reported under Nevada law shall be immediately reported to Storey County Community Development Department and Nevada Division of Environmental Protection (NDEP). The permit holder shall comply with the NDEP’s clean-up requirements and provide Storey County a copy of NDEP’s completion of remediation.

The motion was seconded by Lydia Hammack and with no further discussion four voted aye with Holli Kieckler abstaining and the motion carried.

**2009-036:** By James & Rebecca Martin

VC

The applicant is requesting a Variance on setbacks to allow them to build a garage on APN 001-102-04 at 504 C Street Virginia City.

Bret Tyler made a motion to continue this application. The motion was seconded by Holli Kieckler and with no further discussion, all voted aye and the motion carried.

**PRESENTATION:** by Daniel Jacquet of the Bureau of Land Management (BLM) on Great Basin Wind’s proposed New Comstock Wind Energy Project

Planner Osborne explained to the audience that this was just a presentation and that no action would be taken tonight. The intention of tonight’s meeting, Osborne explained, is for BLM to present this phase of their Environmental Impact Statement (EIS). He also explained that BLM would be given the floor tonight, Great Basin Wind’s President Rich Hamilton would be here to provide technical support, and that there would be time allotted after the presentation’s conclusion for questions and answers for the attending public.

Linda Kelly, Sierra Front Field Manager, gave a brief description of the split into two office of the BLM in Carson City. Representing the BLM was also Ken Nelson and Rich Channel.

Jane Peterson, Renewable Energy Project Manager, gave the following power point presentation:

## **INTRODUCTION**

- Carson City District Office
- Sierra Front Field Office - Linda Kelly, Field Office Manager
- NEPA Process - Jane Peterson, Energy Project Manager
- Cooperating Agencies
- Next Steps
- Project Overview - Rich Hamilton, Great Basin Wind

## **PROJECT OVERVIEW**

- Approximately 71 turbines
  - 210' to 330' tall ..•
  - Blade length - 115' to 170'
- 20 miles underground electrical lines
- 5 miles of 120 kV transmission line to substation
- Access roads
- Miscellaneous storage buildings and yards

## **RIGHT-OF-WAY PROCESS**

- Federal Land Policy and Management Act – BLM authority for granting ROW on public lands
  - Authorization to use a specific piece of public land for a certain project for a term appropriate for the life of the project
  - Specifies authority to grant ROWs for systems to generate, transmit, and distribute electric energy
- Further authority in the Energy Policy Act of 2005
  - 10,000 MW of renewable energy projects located on public lands by 2015

## **ROW PROCESS - NEW COMSTOCK**

- Great Basin Wind LLC submitted an SF-299

Right-of Way application to construct and operate a commercial wind turbine facility and an initial Plan of Development

- BLM to prepare Environmental Impact Statement
- Decision on to be made on the ROW after completion of EIS is based on:
  - Outcome of EIS
  - Determination if proposal is in the public interest
  - Consistency with Federal, State, or local laws

## **NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)**

- A public, interdisciplinary process to ensure informed decision-making by federal agencies
- Requires agencies to follow a particular process
- Requires agencies disclose the information used to support those decisions

## **EIS COMPONENTS**

- Scoping .
- Purpose and Need
- Alternatives Development
- Environmental Impact Analysis
- Draft EIS
- **Public Meetings**
- **Public Review Period**
- Final EIS
- Record of Decision (ROD)

## **SCOPING ISSUES TO BE ADDRESSED IN THE EIS**

- Visual Resources
- Socioeconomic

- Cultural Resources
- Noise
- Wildlife
- Recreation Access
- Tourism
- Vegetation
- Electromagnetic Interference
- Wildfire
- Invasive Species
- Erosion
- Safety
- Emergency services
- Travel management
- Transportation

## **COOPERATING AGENCIES**

- Objectives:
  - Gain early and consistent involvement of CA partners
  - Incorporate local knowledge of economic, social, and environmental conditions, as well as state and local land use requirements
  - Address intergovernmental issues
  - Avoid duplication of effort
  - Enhance local credibility of the planning review process
  - Encourage CA support for planning decisions
  - Build relationships of trust and cooperation.

## **COOPERATING AGENCIES**

- Eligibility:
- State, local, tribal and federal agencies with:
- Jurisdiction by law and/or
- Special expertise
- Memorandum of Understanding (MOU) establishes roles and responsibilities

## **COOPERATING AGENCIES**

- Cooperating agencies participate in various steps of the EIS process as feasible
  - Collect data
  - Identify interest groups/organizations
  - Help identify alternatives
  - Assist in analysis
  - Assist in responses to comments
- All NEPA decisions remain responsibility of the BLM

## **SCHEDULE**

- |                            |                              |
|----------------------------|------------------------------|
| • Scoping                  | December 2008 - January 2009 |
| • Draft EIS                | Late 2009                    |
| • Final EIS                | mid-2010                     |
| • Record of Decision (ROD) | Late 2010                    |

The following representatives were present representing New Comstock Wind Energy: Rich Hamilton, Great Basin Wind; Ed Duggan, Oak Creek Energy Systems; Stuart Smith, Oak Creek Energy Systems; and Phil Tousignart, Kleinfelder. They would provide any technical support needed.

Commissioner Tyler wanted to know why this particular location rather than in TRI. Mr. Duggan answered that it had to do with the wind and the studies that they had done.

Commissioner Kiechler asked who decided on the qualifying agency and if the BLM intended to invite Storey County to participate in the process. Jane Peterson said that this was part of the Scoping process and that they would be taking all the comments into consideration.

Chairman Bucchianeri expressed his feelings in a comment that the BLM would have the final say and that Storey County would be advisory.

Vice-Chairman Hammack was interested in the sub groups such as home owner associations in this process. The sub groups would inform the county and the county would advise BLM.

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Commission Prater volunteered to be a staff member or point of contact for the county on this project as part of the cooperating agency or be a part of a sub-committee to work with county staff and the BLM. Commissioner Tyler said he would also like to be part of the people representing Storey County to the BLM.

Jed Margolin, who lives in the Virginia City Highlands, wanted to know how the wattage was gauged: was it during peak or usual wind? How many homes would be supplied with electricity? With the BLM having the final decision and the cooperating agency only having input, he objected in the strongest terms.

Jim Watson of the Virginia City Highlands was interested in the other uses of the federal land and how this would affect them. There are seven applications in for wind farms and only one is for private land. Will the BLM be receiving money for the use of its land and would Storey County see any money from this project? Ken Nelson answered that there would be an annual rent determined by the watts produced by the turbines which would amount to approximately \$637,700.00 per year. Storey County would only be getting the property taxes. Rich Hamilton commented that it was more expensive to put the wind farms on public land and that 85% of Nevada was public land. The other consideration was the amount of energy that could be produced by the site. There are currently 18 wind mills in Storey County. The wind monitoring was started in 2006.

Ron Engelbrecht of the Mark Twain Estates brought Senate bill 114 which has just come out of committee that will not allow any local or county ordinances to prohibit or be too restrictive on either Solar or Wind Energy. Chairman Bucchianeri suggested that the Planning staff keep an eye on this legislation.

Joe Curtis, Virginia Convention & Tourism Authority, commented on the complaints that had been received over the past couple of summers in regards to a “significant noise” which was discovered to be the small test wind turbines placed by Comstock Wind Energy to gather information. The BLM is using the first person which means that they have already made their decision which is evident from published comments in the media – “...they’ll just have to get used to it”. He stated further that the visual impact would be significant to tourism and would be the future demise of tourism in Storey County.

Caroline Lowman, Washoe County, commented that putting them on the ridge tops was not necessary since turning the turbines had to do with the cooler air rising off the valley floors. Second, where was the steel coming from to build them and how about using the resources in Nevada for these projects?

Bob Fredlund, Carson City, thanked Planner Osborne for keeping him informed as he owns three 40 acre parcels on Middle Hill and Abby Hill. He has concerns about the environmental issues, wild horses and the springs. He would like to be a stakeholder in this process.

Ron Reno, Silver City, said that he is Heritage Consultant and the Silver City was looking to Storey, Carson, and Washoe Counties to protect them. They could have the visual effect of the wind turbines. He wanted to know if the scoping files were available and if they could be posted to the BLM website for viewing. Jane Peterson said they were available at the office but that she had not considered posting them to the website but take that into consideration.

Ralph Arista, Virginia City, commented that for two years the residents of Virginia City has to put up with the whooping sound of 15’ wind turbine and that now the silence was golden.

Christy Ann Strange, Virginia City, explained her story of having to live with over 100 wind mills along a ridge line in Pennsylvania. There was constant sound and electrical interference. They spoil the view and do cause the tourism to drop.

Geri Baker, Virginia City Highlands, is a breast cancer survivor and has spent a lot of time looking for a place for herself and her children. The noise of the turbines would destroy the peace and quiet that she looked so hard for.

Tom Purkey, Virginia City, first wanted to know the obligation for the use of the wind energy and second if a bond requirement was in place encase they went out of business and the wind turbines had to be taken down. Ken Nelson replied that \$10,000 bond was required on each turbine.

Tom Gray, Virginia & Truckee Railroad, commented on the historical significance of the project that has cost millions and what the visual effects will do to the drop in tourism. Wind mills are not attractive to look at and spoil the landscape.



County Manager Pat Whitten said that he would take both Commissioner Prater and Commissioner Tyler earlier offer to help the county out into consideration. In regards to the question about more advertising or noticing about the meetings to be help, he said he would get with the local media and see what solution could be found. Commissioner Kiechler asked why the public meeting after the scoping was supposed to already be done. Jane Peterson said that the scoping was still open and that all comments would be taken into consideration.

**DISCUSSION OF ANY CHANGES TO ORDINANCES OR MASTER PLAN:**

Planner Osborne explained to the audience that during this section of the agenda that the Planning Commissioners typically would give him any suggestions they had in regard to additions or changes to draft ordinances that are being worked on. He stated that he would be happy to address any questions and comments from the attending public after the meeting.

**DETERMINATION OF NEXT PLANNING COMMISSION MEETING:**

Planner Osborne briefed the Commission on possible items to be included on the next agenda. Items included ordinance workshop, short presentation on “Dark Skies” ordinance objectives, and discussion session for those who attended the last APA teleconference. Bret Tyler made a motion that the March 5, 2009 Planning Commission meeting be at the Virginia City County House beginning at 6PM. The motion was seconded by Larry Prater and with no further discussion, all voted aye and the motion carried.

**CLAIMS:** None

**CORRESPONDENCE:** None

**PUBLIC COMMENT:** None

**STAFF:**

Commission Prater requested an action item be placed on the next agenda to elect 3 or less Planning Commissioners to be a member of the Cooperating Agency for Storey County for the BLM EIS process on the Wind Energy project.

**ADJOURNMENT:** Chairman Virgil Bucchianeri adjourned the meeting at 7:35 P.M.

Respectfully Submitted,

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Donna Giboney, Sitting Secretary

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Virgil Bucchianeri, Chairman