

MILLARD COUNTY, UTAH
CONDITIONAL USE PERMIT
(APPLICATION #Z-2008-008)
MILFORD WIND CORRIDOR PHASE II, LLC
WIND ENERGY SYSTEM (MAJOR)
FINDINGS, DECISION, AND REASONABLE CONDITIONS OF APPROVAL

- A. Milford Wind Corridor Phase II, LLC (“MWC”) applied for a conditional use permit by Application #Z-2008-008 to Millard County, Utah (“County”) to allow the establishment and operation of a Wind Energy System (Major) on the property identified by Attachment A.
- B. A public hearing was held May 7, 2008 on Application #Z-2008-008 by the County Planning Commission. The hearing was preceded by publication of the necessary public hearing notice.
- C. On June 4, 2008, and following the close of the public hearing and the receipt of both verbal and written comment on Application #Z-2008-008 the County Planning Commission made a recommendation to the County Board of County Commissioners (“BOCC”), and accompanied by findings, that Application #Z-2008-008 be approved with reasonable conditions.
- D. A public hearing was held July, 1, 2008 on the recommendation of the County Planning Commission and Application #Z-2008-008 by the BOCC. The hearing was preceded by publication of the necessary public hearing notice.
- E. On July 22, 2008, and following the close of the public hearing and the receipt of all verbal and written comment on the County Planning Commission’s recommendation and Application #Z-2008-008, the BOCC made a decision on Application #Z-2008-008.
- F. The BOCC hereby now makes the following findings and decision.

I
FINDINGS OF FACT

The BOCC finds that with compliance by MWC with the reasonable conditions of conditional use permit approval, as identified herein, the requirements of the County Code, as applicable, have been met and further finds;

1. The proposed use at the proposed location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the County.

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2. Such use will not, under the circumstances and conditions imposed, be detrimental to the health, safety and general welfare of persons or injurious to property or improvements of the immediate area or the County as a whole.
3. The proposed use will comply with the regulations and conditions specified in the County Code for such use.
4. The proposed use conforms to the goals, policies and governing principles of the County General Plan.
5. The accessory uses associated with the Electric Transmission Right-of-Way (Major) will support and further the principal use of the property.

II
DECISION AND REASONABLE CONDITIONS OF APPROVAL

For the reasons stated above, Application #Z-2008-008 is approved by the BOCC and granted subject to the following reasonable conditions of approval:

1. The Application for a Conditional Use Permit, Application #Z-2008-008 – MWC, with all its materials, information, and commitments associated with the proposed Wind Energy System (Major), and submitted to July 1, 2008, be incorporated by reference as conditions of approval, including but not limited to:
 - 1.1. General Construction Practices.
 - 1.2. Construction Methods.
 - 1.3. Site Reclamation.
 - 1.4. Storm Water Control.
 - 1.5. Hazardous Materials Management.
 - 1.6. Construction Waste & Human Waste Management, and
 - 1.7. Human Health & Safety.
2. A detailed Site Plan (and attached hereto as Attachment A) is provided to the County Planner clearly identifying the location of all turbines and facilities, including all accessory structures and staging areas, and materially complying with the general layout of the Site Plan provided with the Application materials, and including a detailed legal description of the site and a listing of all property owners and their ownerships. The Conditional Use Application approval shall apply to the property identified by the detailed legal description only.
3. A site inspection is conducted by County Staff and/or County representative following the surveying and staking of the Wind Energy System (Major) site and all turbine locations.

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4. A copy of all required Federal & State Permits and Licenses are provided to the County Planner, prior to the issuance of a Building Permit, and to remain on file in the Office of the County Planner.
5. A County Road Maintenance Agreement is established between the County & MWC to address issues of possible County road deterioration as a result of construction equipment use during construction. Such Agreement shall be reviewed and revised, as necessary, by the County Attorney and approved by the BOCC prior to the issuance of a Building Permit. This Agreement shall include provisions for adequate road maintenance and repair bonding for any road deterioration caused by MWC during construction, acceptable to the County Attorney, and all other performance guarantees and guarantee periods, as determined necessary by the County Attorney, and approved by the BOCC.
6. A Traffic Management Plan for all County roads and streets and Municipal streets used or impacted during construction is provided to the County Planner prior to the issuance of a Building Permit and to remain on file in the Office of the County Planner.
7. MWC shall notify all affected private property owners and livestock permittees a minimum of fifteen (15) calendar days prior to the commencement of any construction, with such notice identifying the Wind Energy System (Major) Construction Schedule. Any material deviation(s) from the Construction Schedule shall be provided to all affected private property owners and livestock permittees in a timely manner. MWC shall work cooperatively with private property owners and livestock permittees to minimize conflicts with grazing and ranching operations. A MWC contact and contact phone number and email address shall be provided to the County Planner and to all affected property owners and permittees to facilitate communication and coordination with all owners and permittees.
8. A Site Security Plan, approved by the County Sheriff's Office, is provided prior to the issuance of a Building Permit and to remain on file in the Office of the County Planner and County Sherriff. Included in the Site Security Plan shall be provisions that address Facility/Site emergency and normal shutdown procedures and County Public Safety communication protocols.
9. A Storm Water Control Plan, including all necessary erosion control measures, as required and approved by the Utah Department of Environmental Quality, is provided prior to the issuance of a Building Permit and to remain on file in the Office of the County Planner.
10. An environmental assessment that addresses wildlife and avian impacts and mitigation measures, as required and approved by the Bureau of Land Management, is provided prior to the issuance of a Building Permit and to remain on file in the Office of the County Planner.

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11. A Site Reclamation, Decommissioning, and Abandonment Plan for facilities located on private land be provided and reviewed and revised, as necessary, by the County Attorney and approved by the BOCC prior to the issuance of a Building Permit. This Plan shall include an estimate of the cost of site reclamation, decommissioning, and abandonment including any scrap value offsets. MWC shall post a bond, or other acceptable surety, with a value equal to the costs of site reclamation, decommissioning, and abandonment of the Wind Energy System (Major) running to the County, and all other performance guarantees, as determined necessary by the County Attorney, and approved by the BOCC for the entire life of the Wind Energy System (Major). MWC shall provide evidence to the County of any site reclamation, decommissioning, and abandonment bonding or other surety and guarantees required by any Federal or State agency prior to the issuance of a Building Permit.
12. Necessary Warning Signage is placed on all turbine towers, electrical equipment and site entrances. No advertising of any description shall be permitted on any Wind Energy System (Major) facilities.
13. Necessary Over-Speed Controls be in place and operational for the model of turbine used.
14. Compliance with all requirements of the Federal Aviation Administration (FAA).
15. A Fire Management Plan is formulated, in consultation with Federal, State, and Local agencies, as applicable. Such Plan shall be approved by the County Fire District and shall be provided to the Fire District prior to the issuance of a Building Permit and to remain on file in the Office of the County Planner and the County Fire Marshall. The Fire Management Plan shall identify all defensible space for fire protection in accordance with the County's Wildland-Urban Interface Code.
16. The approval of Conditional Use Application #Z-2008-008 shall be reviewed on July 1, 2009 at which time, if a Building Permit Application has not been approved and a valid Building Permit issued, the BOCC may extend the Conditional Use Application approval to February 1, 2010 upon a recommendation to do so from the County Planner and County Attorney. The Conditional Use Application approval may be further extended by the BOCC to August 1, 2010 upon a recommendation from the County Planner and County Attorney, and with a finding by the BOCC of extenuating circumstances beyond the control of MWC. If construction is not commenced by August 1, 2010 the Conditional Use Application approval shall lapse and the Conditional Use Permit shall expire and be void.
17. MWC shall include in all construction contracts/agreements that all construction workers must reside in appropriate and designated housing facilities and locations and no temporary construction worker housing shall occur in any undesignated areas or remote locations of the County.

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18. A MWC Voluntary Assistance Agreement is prepared for acceptance by the BOCC, upon the recommendation of the County Attorney. Such Agreement shall identify the total agreed upon voluntary contribution being provided by MWC in favor of the County and the contribution schedule. The Voluntary Assistance Agreement shall be authorized by the notarized signature of the President of MWC, on behalf of MWC.
19. A Conditional Use Permit shall be prepared by the County Attorney, or County representative, as provided herein, such Permit including all conditions of Conditional Use Application approval, as approved by the BOCC. The Conditional Use Permit shall be executed by the notarized signature of the Chair of the BOCC, on behalf of the County, and the notarized signature of the President of MWC, on behalf of MWC. Upon its execution the Conditional Use Permit shall be recorded in the Office of the County Recorder, with copies provided to the BOCC, County Attorney, County Planner, County representative, and President of MWC.
20. A Building Permit be required and issued by the County Building Official for all construction associated with the Wind Energy System (Major) and all Building Permit fees paid. The Building Permit shall remain valid during the entire construction period, as provided by the County's Building Codes, as adopted. The Building Permit Application shall include a set of structural plans, approved and stamped by a licensed structural engineer. The issuance of a valid Building Permit, as required by this condition, shall not occur until all other conditions, as applicable, have been met and complied with fully, as determined by the County representative, as provided herein.
21. The BOCC shall identify and designate a contact person to act as the County representative in all administrative matters required herein and for the efficient administration of the Conditional Use Permit and for coordination and communication with MWC and the various County Offices and Staff.
22. The County's representative and MWC, communicating and coordinating together, shall have the obligation and responsibility to insure that all conditions of the Conditional Use Application approval and the accompanying Conditional Use Permit are met and complied with.
23. Prior to any construction occurring on the Wind Energy System (Major) site a Pre-Construction meeting shall be held with all necessary County Officials and Staff and other Federal and State Agency Officials and independent service providers, as determined necessary by the County representative.
24. At least monthly during the construction period, and at other times as determined necessary by the BOCC thereafter, an authorized representative of MWC shall provide the BOCC, at a

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regular meeting, an “in-person” Wind Energy System (Major) project progress and construction update.

25. Prior to the issuance of a Building Permit, all fees and charges applicable to the review, approval, and issuance of the MWC – Wind Energy System (Major) Conditional Use Permit and Building Permit shall be paid in full.
26. Any inconsistencies or ambiguities in the materials and information provided to the County by MWC shall be interpreted and applied in favor of the County.

III OTHER REGULATIONS SHALL APPLY

The Applicant shall abide by all federal, state and local laws, as applicable. Nothing in this decision shall be deemed to authorize any public or private nuisance or to constitute a waiver or exception to any law, ordinance or rule, except to the extent that it authorizes the use of the subject premises in the manner as authorized herein.

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IV
EXECUTION

THE PARTIES, BY THEIR AUTHORIZED REPRESENTATIVES, EXECUTE THIS PERMIT
THIS 5 DAY OF Jan 2010, 2010.

FOR MILLARD COUNTY BY:

Daron P Smith

Daron P. Smith, Chairperson
Millard County Board of County Commissioners

THIS 5 DAY OF Jan 2010

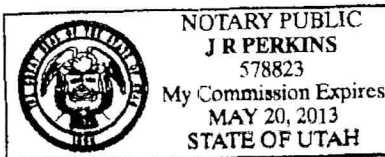
Before me on this day personally appeared Daron P. Smith, Chairperson, Millard County Board of County Commissioners, known to me to be the person whose name is subscribed to this instrument, and upon his oath acknowledged to me that he executed the same for the purposes and consideration herein expressed and in the capacity herein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 5th DAY OF January, 2010.

(SEAL)

NOTARY PUBLIC

J Perkins



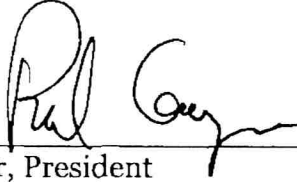
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CONDITIONAL USE PERMIT – APPLICATION #Z-2008-008 – FINAL
Milford Wind Corridor Phase II, LLC
Wind Energy System (Major)

FOR MILFORD WIND CORRIDOR PHASE II, LLC BY:



Paul J. Gaynor, President
Milford Wind Corridor Phase II, LLC

THIS 4th DAY OF January, 2010

Before me on this day personally appeared Paul J. Gaynor, President, Milford Wind Corridor Phase II, LLC, known to me to be the person whose name is subscribed to this instrument, and upon his oath acknowledged to me that he executed the same for the purposes and consideration herein expressed and in the capacity herein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 4th DAY OF January, 2010.

(SEAL)


NOTARY PUBLIC

LINDA P. MARRONE
Notary Public
Commonwealth of Massachusetts
My Commission Expires
April 23, 2010

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CONDITIONAL USE PERMIT – APPLICATION #Z-2008-008 – FINAL
Milford Wind Corridor Phase II, LLC
Wind Energy System (Major)

V
RECORDING

1. This document, with its Attachment hereto shall be recorded in the Office of the County Recorder.
2. RECORDED THIS 15th DAY OF JANUARY, 2010

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CONDITIONAL USE PERMIT -- APPLICATION #Z-2008-008 -- FINAL
Milford Wind Corridor Phase II, LLC
Wind Energy System (Major)

ATTACHMENT A

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ATTACHMENT A
TO
MILLARD COUNTY, UTAH CONDITIONAL USE PERMIT
(APPLICATION #Z-2008-008)
MILFORD WIND CORRIDOR PHASE II, LLC
WIND ENERGY SYSTEM (MAJOR)

Description of Property

1. Land Lease Agreement dated June 16, 2008, by and between Elmer Lewis Frasier, as Trustee of the Elmer Lewis Frasier Revocable Living Trust dated November 16, 2007, as Lessor, and Milford Wind Corridor Phase II, LLC, a Delaware limited liability company ("Milford Phase II"), as Lessee. A Memorandum of Lease was recorded on June 26, 2008 as Entry No. 00166412, Book 489, Page 425 in official records, Millard County. The foregoing lease affects the following real property located in Millard County, Utah:

THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP
25 SOUTH, RANGE 10 WEST, SALT LAKE BASE AND
MERIDIAN.

Tax Serial No. 8831

2. Land Lease Agreement dated June 30, 2008, by and between Leland E. Finley and Patricia J. Finley, collectively, as Lessor, and Milford Phase II, as Lessee. A Memorandum of Lease was recorded on July 18, 2008 as Entry No. 00166689, Book 490, Page 578 in official records, Millard County. The foregoing lease affects the following real property located in Millard County, Utah:

THE NORTHEAST QUARTER; THE WEST HALF OF THE
SOUTHEAST QUARTER; AND THE EAST HALF OF THE
SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 25
SOUTH, RANGE 10 WEST, SALT LAKE BASE AND
MERIDIAN.

Tax Serial No. 8829

3. Land Lease Agreement dated December 12, 2008, by and between Peter Harris Brockdorff, Jenny Elise Garver, and Ellen E. Supple, collectively, as Lessor, and Milford Phase II, as Lessee. A Memorandum of Lease was recorded on February 10, 2009 as Entry No. 00168679, Book 498, Page 340 in official records, Millard County. The foregoing lease affects the following real property located in Millard County, Utah:

THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP
25 SOUTH, RANGE 10 WEST, SALT LAKE BASE AND
MERIDIAN.

Tax Serial No. 8852-4

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4. Land Lease Agreement dated December 10, 2008, by and between Richard Holdaway, a.k.a. Richard M. Holdaway, and Noreen Holdaway, collectively, as Lessor, and Milford Phase II, as Lessee. A Memorandum of Lease was recorded on March 5, 2009 as Entry No. 00168886, Book 499, Page 446 in official records, Millard County. The foregoing lease affects the following real property located in Millard County, Utah:

THE NORTH HALF OF SECTION 31, TOWNSHIP 25 SOUTH,
RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN.

Tax Serial No. 8736

5. Land Lease Agreement dated March 6, 2009, by and between Charles F. Larsen, as Lessor, and Milford Phase II, as Lessee. A Memorandum of Lease was recorded on May 20, 2009 as Entry No. 00169755, Book 503, Page 573 in official records, Millard County. The foregoing lease affects the following real property located in Millard County, Utah:

THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP
25 SOUTH, RANGE 10 WEST, SALT LAKE BASE AND
MERIDIAN.

Tax Serial No. 8832

6. Land Lease Agreement dated December 10, 2008, by and between Anthony A. Weber, Dane A. Weber, and Robin J. Weber, collectively, as Lessor, and Milford Phase II, as Lessee. A Memorandum of Lease was recorded on August 14, 2009 as Entry No. 00170562, Book 507, Page 197 in official records, Millard County. The foregoing lease affects the following real property located in Millard County, Utah:

THE SOUTHEAST QUARTER OF THE NORTHWEST
QUARTER OF SECTION 36, TOWNSHIP 25 SOUTH, RANGE
10 WEST, SALT LAKE BASE AND MERIDIAN

AND

THE SOUTHWEST QUARTER OF THE NORTHWEST
QUARTER OF SECTION 36, TOWNSHIP 25 SOUTH, RANGE
10 WEST, SALT LAKE BASE AND MERIDIAN.

Tax Serial Nos. 8856 and 8856-3

7. Land Lease Agreement dated March 6, 2009, by and between Audrey Ohnikian, as Lessor, and Milford Phase II, as Lessee. A Memorandum of Lease was recorded on September 16, 2009 as Entry No. 00170877, Book 508, Page 369 in official records, Millard County. The foregoing lease affects the following real property located in Millard County, Utah:

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THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP
25 SOUTH, RANGE 10 WEST, SALT LAKE BASE AND
MERIDIAN.

Tax Serial No. 8857

8. Land Lease Agreement dated March 6, 2009, by and between Richard Belliston, as Lessor, and Milford Phase II, as Lessee. A Memorandum of Lease was recorded on October 19, 2009 as Entry No.00171214, Book 510, Page 083 in official records, Millard County. The foregoing lease affects the following real property located in Millard County, Utah:

THE NORTH 128.64 ACRES IN THE SOUTHWEST QUARTER
OF SECTION 6, TOWNSHIP 26 SOUTH, RANGE 9 WEST,
SALT LAKE BASE AND MERIDIAN.

Tax Serial No. 8911

9. Amended and Restated Land Lease Agreement, made effective as of February 22, 2007, and executed as of April 22, 2009, by and between Circle Four LLC, a Delaware limited liability company, as Lessor, and Milford Phase II, as Lessee. An Amended and Restated Memorandum of Lease was recorded on August 14, 2009 as Entry No. 00170558, Book 507, Page 155 in official records, Millard County and recorded August 25, 2009, as Entry No. 240604, Book 437, Page 860 in official records, Beaver County. The foregoing lease affects the following real property located in Millard County and Beaver County, Utah:

PARCEL 1:

THE SOUTH HALF OF SECTION 31, TOWNSHIP 25, SOUTH,
RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN.

Tax Serial No. 8737

PARCEL 2:

ALL OF SECTION 32, TOWNSHIP 25 SOUTH, RANGE 9
WEST, SALT LAKE BASE AND MERIDIAN.

Tax Serial No. 8738

PARCEL 3:

THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP
25 SOUTH, RANGE 9 WEST, SALT LAKE BASE AND
MERIDIAN.

Tax Serial No. 8739

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PARCEL 4:

THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 25 SOUTH, RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN.

Tax Serial No. 8739-1

PARCEL 5:

THE NORTH 120.32 ACRES OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 26 SOUTH, RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN.

Tax Serial No. 8911-A

PARCEL 6:

THE SOUTH HALF OF SECTION 29, TOWNSHIP 25 SOUTH, RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN.

Tax Serial No. 8734

PARCEL 7:

THE SOUTH HALF OF SECTION 30, TOWNSHIP 25 SOUTH, RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN.

Tax Serial No. 8735

PARCEL 8:

THE NORTH HALF OF SECTION 29, TOWNSHIP 25 SOUTH, RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN.

LESS: THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 29.

Tax Serial No. 8733

PARCEL 9:

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 26 SOUTH, RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN, LYING WITHIN BEAVER COUNTY.

Tax Serial No. 1-217-1

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10. Amended and Restated Special Use Lease Agreement No. 1599B, dated effective as of April 22, 2009, by and between the State of Utah, acting by and through the School and Institutional Trust Lands Administration, as Lessor, and Milford Phase II, as Lessee. An Amended and Restated Memorandum of Lease was recorded on August 14, 2009 as Entry No. 00170560, Book 507, Page 173 in official records, Millard County and recorded August 25, 2009 as Entry No. 240606, Book 438, Page 1 in official records, Beaver County. The foregoing lease affects the following real property located in Millard County and Beaver County, Utah:

PARCEL 1:

THE SOUTH HALF OF SECTION 2, TOWNSHIP 26 SOUTH,
RANGE 10 WEST, SALT LAKE BASE AND MERIDIAN.

PARCEL 2:

THE EAST HALF OF SECTION 36, TOWNSHIP 25 SOUTH,
RANGE 10 WEST, SALT LAKE BASE AND MERIDIAN.

PARCEL 3:

THE WEST HALF OF THE SOUTHEAST QUARTER AND
THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP
25 SOUTH, RANGE 10 WEST, SALT LAKE BASE AND
MERIDIAN.

THE EAST HALF OF THE SOUTHEAST QUARTER OF
SECTION 27, TOWNSHIP 25 SOUTH, RANGE 10 WEST,
SALT LAKE BASE AND MERIDIAN.

PARCEL 4:

THAT PORTION OF THE SOUTH HALF OF SECTION 2,
TOWNSHIP 26 SOUTH, RANGE 10 WEST, SALT LAKE BASE
AND MERIDIAN, LYING WITHIN BEAVER COUNTY.

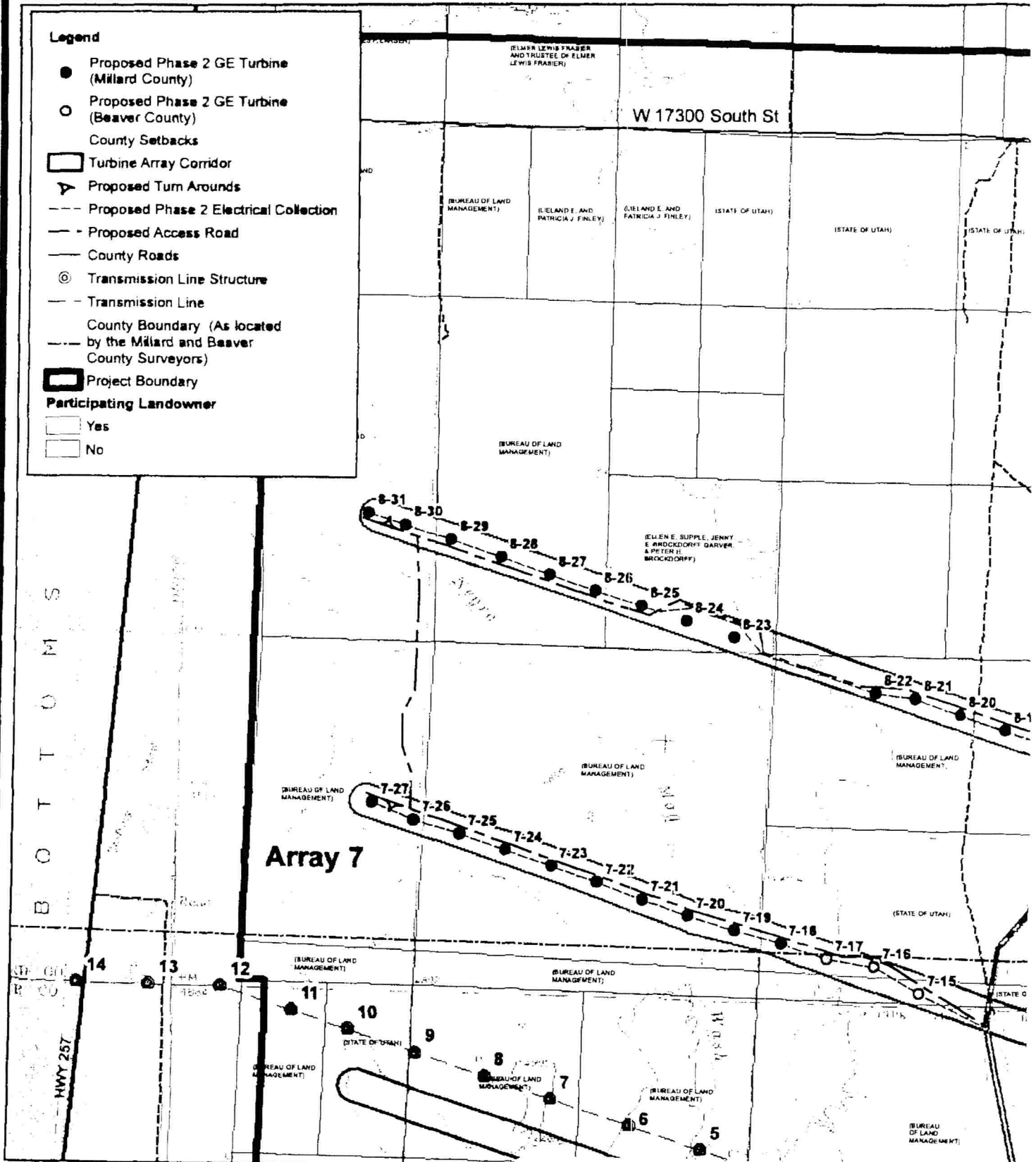
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Legend

- Proposed Phase 2 GE Turbine (Millard County)
- Proposed Phase 2 GE Turbine (Beaver County)
- County Setbacks
- ▭ Turbine Array Corridor
- ⤴ Proposed Turn Arouds
- Proposed Phase 2 Electrical Collection
- - - Proposed Access Road
- County Roads
- ⊙ Transmission Line Structure
- - - Transmission Line
- - - County Boundary (As located by the Millard and Beaver County Surveyors)
- ▭ Project Boundary
- Participating Landowner**
- Yes
- No



Data Sources: CH2M Hill (2009); RMT, Inc. (2009); ESR1 (2008); Fur Wind (2009); and Westwood PS (209)

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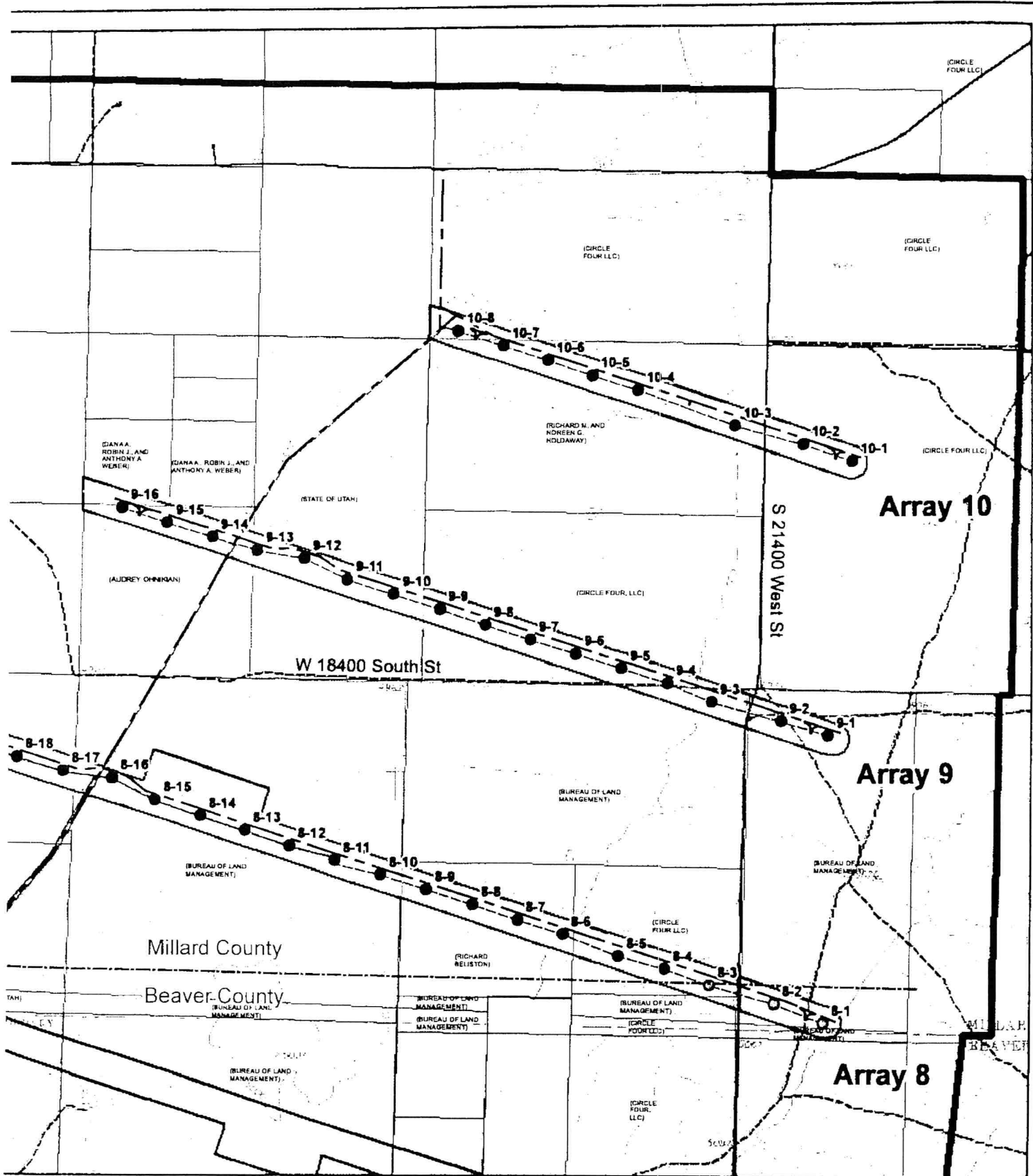


Westwood Professional Services, Inc.
 7699 Anagram Drive
 Eden Prairie, MN 55344
 PHONE 952-937-5150
 FAX 952-937-5422
 TOLL FREE 1-888-937-5150
 www.westwoodps.com



Note: County Boundary as

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Milford Wind Corridor, Phase II

Milford, Utah

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located by County Surveyors



EXHIBIT 1