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STAFF REPORT

AGENDA ITEM NO.: 6 (Action Item – Public Hearing)
DATE OF MEETING: March 24, 2010
SUBJECT: Conditional Use Permit No. 2009-07/Bishop
Tungsten Development, LLC (Doug Hicks)

EXECUTIVE SUMMARY:

The proposed project is located at the former Pine Creek Tungsten Mill located at the terminus of Pine Creek Road approximately 7 miles west of the community of Rovana. It is located at the junction of Pine Creek and Morgan Creek in Section 8, township 7 South, Range 30 East, M.D.B. & M.

The project site consists of approximately 200 acres of patented mining claims which is designated as Natural Resource (NR) in the Inyo County General Plan and is zoned Open Space, 40 acre minimum (OS-40).

At the time the Pine Creek Mill was in operation a small hydro-generator was installed on the site utilizing the water coming out of the EZGO adit. The electricity generated was used at the mill and supplemented the electricity provided by Southern California Edison (SCE) from its power lines in Pine Creek Canyon.

The small hydro-generator and its appurtenant electrical system, is still located on the site and the applicant desires to utilize it to continue to provide onsite power (office and residence) and to sell the excess electrical power to SCE.

Pursuant to Section 18.78.330 (Hydroelectric Facilities) of the Inyo County Zoning Ordinance a Conditional Use Permit is required for a non-domestic portion of a hydroelectric project.

PROJECT INFORMATION:

Application: Conditional Use Permit No. 2009-07/Bishop Tungsten Development, LLC (Doug Hicks)

Supervisory District First

Applicant: Bishop Tungsten Development LLC

Address: Bishop Tungsten Development LLC
c/o Douglas A. Hicks
9050 Pine Creek Road
Bishop, CA 93514

Landowner: Bishop Tungsten Development LLC

Assessor's Parcel Nos. 009-300-02, 04, 05 and 06

Zoning: Open Space, 40 acre minimum (OS-40)

General Plan: Rural Protection (RP)

Site Size: Approximately 38 acres

Location: Eastern slope of the Sierra Nevada Mountains, approximately 7 miles west of the community of Rovana. Located in Section 8, Township 7 South, Range 30 East, M.D.B. & M.

Alternatives: **Approve** conditional Use Permit No. 2009-07 with specified conditions as stated in the following Staff Report.

Continue the hearing to another specific date and time for additional information and/or clarification from Staff and applicant.

Project Planner: Adena Fansler, Associate Planner/Mining Inspector.

PROJECT DESCRIPTION:

The project is to replace an existing island type electrical service connection with a parallel type electrical service connection. This would enable the electricity to be net-metered and subsequently sold to SCE.

The water exits the EZGO adit (12.5 to 14.0 cfs) and is transported by pipe to turbines and generators where electricity is generated.

No turbines are to be added nor the electrical generation capacity expanded. No changes to the mine water discharge system are to be made.

Southern California Edison has an existing power line from the Rovana area up Pine Creek to the project site. No new construction is required.

The applicant has already received certification from the California Energy Commission that the proposed project meets their Renewable Energy Portfolio Standards.

An interconnection agreement has been applied for with SCE and an expected date of approval is April 15, 2010.

It is anticipated that the project will produce .25 mw output each year and generate \$100,000 in revenues.

STAFF ANALYSIS:

As noted above, the hydroelectric system currently exists.

The project is not in conflict with the Inyo County General Plan and is in compliance with the Inyo County Zoning Ordinance upon the issuance of a Conditional Use Permit.

No increase in water discharge will occur. The water conveyance system will not change. No new turbines/generators are proposed. The existing SCE power line will be utilized for distribution. The only proposed change in the system is to revise the electrical service connection to allow the electricity of flow into the existing SCE power line.

Staff has no objection to the approval of this project.

ENVIRONMENTAL REVIEW:

.Pursuant to Section 15.20.010(1)(f) of the Inyo County CEQA Procedures all Conditional Use Permits are subject to the requirements as set forth in CEQA.

Pursuant to Section 15302(c) of CEQA the project is categorically exempt and reads as follows:

“Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity”.

In addition there is an exemption provision in CEQA referred to as “the general rule”. It is contained in Section 15061(b)(3) of the State CEQA Guidelines, which reads as follows:

“The activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can

be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”.

Staff has reviewed the application and information contained therein. Staff has determined that; it can be determined to be a categorically exempt project and; there is no possibility that the proposed activity may have a significant effect on the environment. Therefore, it is exempt from the provisions of CEQA based upon both the above provisions of CEQA.

PUBLIC HEARING NOTIFICATION:

Notices of this public hearing were sent to property owners within 300 feet of the subject property (in this case, only to the Inyo National Forest). A public hearing notification was published in the Inyo Register at least 10 days prior to this hearing.

RECOMMENDATIONS :

It is the recommendation of the Planning Department that the Commission take the following actions:

- A.** Find that the proposed Conditional Use Permit No. 2009-07/Bishop Tungsten Development, LLC is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15302(c) (categorical exemption) and Section 16061(b)(3) of the CEQA Guidelines (general rule).
- B.** Approve Conditional Use Permit No. 2009-07/Bishop Tungsten Development, LLC Subject to the following conditions:
 - 1. Authorization of this Conditional Use Permit shall be for a period of two years and be void unless the use is established or construction necessary and incident to its establishment is started within two years of the date of its approval.
 - 2. All appropriate building permits, including electrical permits, shall be obtained prior to any modification to the existing electrical system.
 - 3. Upon completion of interconnection agreement with SCE a copy of the agreement shall be filed with the Inyo County Planning Department to be placed in the CUP file. Any proprietary information may be omitted.
 - 4. Generation facilities, equipment and capacity shall not be expanded.

Attachments: Vicinity Map
Application