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El Paso County, CO



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**ADMINISTRATIVELY APPROVED PERMIT
ISSUED TO CONDUCT A
DESIGNATED ACTIVITY OF STATE INTEREST
OR
TO ENGAGE IN DEVELOPMENT IN A
DESIGNATED AREA OF STATE INTEREST
IN
EL PASO COUNTY, COLORADO**

Pursuant to Guidelines and Regulations for Areas and Activities of State Interest of El Paso County (the "Regulations") heretofore adopted by the Board of County Commissioners, the Executive Director of the Planning and Community Development Department (the "Director"), acting pursuant to Section 2.202 of the Regulations, and on behalf of the Board of County Commissioners, has received an application from **Front Range Midway Solar Project, LLC**, as owners and applicants (hereinafter "Owner", "Applicant", and "Developer" for an Administratively Approved Permit to conduct the following matter(s) of state interest:

Site Selection and Construction of Major Facilities of a Public Utility

and has approved that application (AASI-20-002).

This Administratively Approved Permit authorizes the Applicant to conduct the following activity/development:

Construction of the Front Range Midway Solar Array Project.

On the tracts of land described in Exhibit A (attached).

For the following period: five (5) years expiring January 26, 2026.

In accordance with the plans and/or specifications approved by the Director on January 26, 2021, as well as the guidelines for administration adopted by the County for:

Site Selection and Construction of Major Facilities of a Public Utility

On the condition that the Applicant proceeds in conformity with all applicable federal and state statutes, regulations and permits as well as all applicable local land use controls including, but not limited to, applicable comprehensive or master plans, subdivision regulations, zoning and building codes.

And on the following additional conditions:

1. Prior to excavation or construction, approval of a site development plan by El Paso County Planning and Community Development (PCD) for the solar array facility is required. The site development plan application shall include, but may not be limited to the following information:
 - a. Site development plan drawings;
 - b. Final drainage report;
 - c. Stormwater Management Plan and Report (SWMPR);
 - d. Erosion and Stormwater Quality Control Permit (ESQCP);
 - e. Any permits required by the Colorado Department of Public Health and Environment, if needed;
 - f. Detailed reseeding plan;
 - g. Lighting plans and detailed specifications, including plans and specifications for temporary lighting, as applicable;
 - h. Sign plans, if signage is proposed;
 - i. Elevations of any above ground structures;
 - j. Emergency response plan, to be prepared in coordination with and acceptable to the El Paso County Office of Emergency Management and Hanover Fire Protection District;
 - k. Noxious weed management plan, to be prepared in coordination with and acceptable to El Paso County Environmental Services; and
 - l. Colorado Department of Health and Environment (CDPHE)-accepted surface and groundwater quality monitoring plans, if required.
2. The activity shall be conducted in accordance with the regulations of El Paso County and the accompanying documents/reports in the Planning and Community Development file for the matter of state interest permit application (AASI-20-002).
3. The Applicant shall provide copies of all required state and County air quality permits prior to approval of a site development plan application.
4. The Applicant shall comply with all applicable local, State, and Federal laws and regulations regarding the use, disposal, storage, and transportation of solid and/or hazardous materials on and off site.
5. Any signage must be approved by the El Paso County Planning and Community Development Department in accordance with Chapter 6 of the El Paso County Land Development Code pursuant to submittal of a separate application for a sign permit.
6. Site lighting, including temporary lighting, will be limited to that shown on the site development plan. All light fixtures shall be directional and positioned so that the light sources are concealed and fully shielded from adjacent properties and public roadways.

7. Operations shall comply with the County Noise Ordinance. If complaints occur, the County may require that the Applicant conduct additional testing to determine noise levels associated with construction or vehicle traffic noise levels. The County may require changes to the hours of operation or require installation of noise controls to achieve acceptable levels as defined in the County Noise Ordinance.
8. The applicant shall comply with federal and state laws, regulations, ordinances, review and permit requirements of applicable agencies including, but not limited to: Colorado Division of Wildlife, Colorado Department of Transportation, Colorado Department of Public Health and Environment, State Engineer's Office, United States Army Corps of Engineers (USACOE), Environmental Protection Agency, FEMA, and the United States Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
9. Any coordination and/or action required by the United States Fish and Wildlife Service or Colorado Parks and Wildlife which may be necessary to address the avoidance or mitigation of impacts of any current or future federally listed or locally sensitive species shall be considered binding. Copies and/or written notice of all documented coordination and/or required action shall be provided to the Planning and Community Development Department within 30 days of receipt by the applicant.
10. The hours of operation during the construction and long-term maintenance of the project shall be limited to seasonal day time hours unless otherwise authorized by the Planning and Community Development Department Director prior to the proposed construction and/or maintenance. Requests to conduct nighttime construction activities shall be submitted to the PCD Director at least two business days prior to the time of the proposed construction. Any failure by the PCD Director to respond to the requests within two business days shall be interpreted as an approval of the request.
11. Within the first twelve months of operation, any complaints received by the County or the Developer, related to hazard or safety concerns pertaining to glare from the solar array shall be forwarded to the Developer. It shall be Developer's responsibility to resolve such complaints. The Developer shall have 30 days to assess the complaint and, if the occurrence of a hazard or safety concern is confirmed, then Developer shall propose a remedial plan to the County for review and approval by the PCD Director. If the Developer has not addressed glare complaints to the satisfaction of the PCD Director, the Board of County Commissioners, at an open and public hearing, shall have the authority to review the complaint and may require additional and reasonable mitigation or remedial actions. Such mitigation or remedial actions shall be based on the available evidence including a study,

commissioned by the County, completed by an independent evaluator approved by mutual consent of the Parties, at the expense of the Developer, and/or a glare analysis provided by the Developer.

12. At least six (6) months prior to the initiation of decommissioning activities, Developer shall prepare a Project Decommissioning and Site Restoration Plan ("PDSRP") prepared in sufficient detail to identify, evaluate, and resolve all major deconstruction, environmental, hauling, and public health and safety issues reasonably anticipated by the Developer on the date thereof and submit the same to the County for review and approval. The PDSRP shall describe the process that will be used to evaluate the options and select the measures that will be taken to restore, reclaim, or preserve the project site and to otherwise ensure the protection of the public against risks or dangers resulting from the project decommissioning. The PDSRP shall address provision for funding or bonding arrangements to meet the project site restoration or management costs and it shall include an estimate of market value of the equipment and salvage value of all other equipment and materials that do not have value at resale.
13. The Applications, their successors or assigns, as the case may be, shall provide financial assurances sufficient for decommissioning costs in the form of a performance bond, guaranty or letter of credit, or cash to ensure the availability of funds for such costs to El Paso County no later than five (5) years prior to the termination of the delivery of power as identified in the power purchase agreement. An updated engineering estimate of the amount of the decommissioning costs shall be provided by the Developer to the County at least sixty (60) days and no sooner than ninety days prior to providing financial assurances to the County. If decommissioning should occur prior to the termination of delivery of power identified in the power purchase agreement, an updated engineering estimate of the amount of the decommissioning costs shall be provided by the Applicants to the County at least 60 days and no sooner than 90 days prior to the start of decommissioning activities.
14. Applicant shall provide notice to the Planning and Community Development Department of the date of initial delivery of power to the existing utility distribution system within 30 days following such date.
15. Issuance of this Permit is only valid with the approval of the approved Wind and/or Solar Energy General Plan Overlay (WSE-O-20-001) District rezoning request. Approval of this Permit is limited as depicted on the WSE-O plan.
16. Approval of this Permit is limited as depicted on the 1041 site plan map attached as Exhibit B.

17. No expansion, enlargement, or modification of the activity shall be allowed, except that the Applicant shall be authorized to install technological upgrades to the existing facilities, which may result in an increase to the maximum energy generating capacity of 100.2 MW. Under no circumstances shall such technological upgrades result in an increase in the area or height of development nor shall any upgrade result in a reduction in the facility setbacks as depicted on the WSE-O plan.

This Administratively Approved Permit is valid for use only by the Applicant and may not be transferred unless consent is given by the County pursuant to Section 2.506 of the El Paso County Guidelines and Regulations for Areas and Activities of State Interest. In the event that the Applicant fails to take substantial steps to initiate the above development or activity within twelve (12) months from the date of this permit or, if such steps are taken, in the event the Applicant fails to complete the development or activity with reasonable diligence, this Administratively Approved Permit may be revoked by the Planning and Community Development Director.

Date: January 26, 2021

File: AASI-20-002

EL PASO COUNTY PERMIT AUTHORITY, ACTING
THROUGH THE EXECUTIVE DIRECTOR OF THE
PLANNING AND COMMUNITY DEVELOPMENT
DEPARTMENT



By: Craig Dossey, Executive Director

EXHIBIT A
LEGAL DESCRIPTION

Tract 1

Fee Owner: El Paso County by and through the Board of County Commissioners of El Paso County, Colorado

ALL OF LOTS 152, 153 AND 155, MIDWAY RANCHES FILING NO. 7, EL PASO COUNTY, COLORADO.

AND

A portion of lots 149 and 150, MIDWAY RANCHES FILING NO. 7, as recorded under Reception No. 201085497 of the records of the El Paso County Clerk and Recorder, located in Section 17, Township 17 South, Range 65 West of the 6th P.M., El Paso county, Colorado and being more particularly described as follows:

Commencing at the Southeast corner of said Section 17, from which the East one-quarter corner of said Section 17 bears $N00^{\circ}49'21''E$, a distance of 2643.52 feet and is the basis of bearings used herein; thence $N46^{\circ}44'55''W$, a distance of 3928.85 feet to the North corner common to Lots 151 and 152 of said Midway Ranches Filing No. 7, said point also being a point on the South line of said Lot 150 and the point of beginning of the tract herein described; thence $N90^{\circ}00'00''W$ along the South line of said Lot 150, a distance of 1051.22 feet to the Southwest corner of said Lot 150 and a point on the Southeasterly right-of-way line of Boca Raton Heights (formerly Rancho Colorado Boulevard); thence along said Southeasterly right-of-way line, the following four (4) courses: 1.) thence $N21^{\circ}56'43''E$, a distance of 29.14 feet; 2.) thence along the arc of a 930.00 foot radius curve to the right, through a central angle of $23^{\circ}59'45''$, an arc length of 389.49 feet (the long chord of which bears $N33^{\circ}56'30''E$, a long chord distance of 386.65 feet); 3.) thence $N45^{\circ}56'15''E$, a distance of 476.24 feet to the West corner common to Lots 149 and 150; thence continuing $N45^{\circ}56'15''E$, a distance of 671.08 feet; thence $S00^{\circ}00'00''W$, a distance of 1145.69 feet to the point of beginning. Said tract contains 15.19 acres of land, more or less.

Tract 2

Fee Owner: Front Range Midway Solar Project, LLC, a Delaware limited liability company

Tract A, EL DORADO VILLAGE FILING NO. 1, County of El Paso, State of Colorado

AND

Lot 1, Midway Ranches Filing No. 8, El Paso County, State of Colorado

Tract 3

Fee Owner: Midway Development Company, Inc., a Colorado corporation

Lot 122 in MIDWAY RANCHES FILING NO. 7, El Paso County, Colorado, according to the recorded plat thereof.

Tract 4

Fee Owner: Powell Homes, LLC, a Colorado limited liability company

The South 200 feet of Lot 27, EL DORADO VILLAGE FILING NO. 1, County of El Paso, State of Colorado

Tract 5

Fee Owner: Public Service Corporation

The Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 20, Township 17 South, Range 65 West of the 6th P.M., El Paso County, Colorado, except the West 145 feet thereof.

Tract 6

Fee Owner: USA Reclamation Service

The Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ and the West 145 feet of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 20, Township 17 South, Range 65 West of the 6th P.M., El Paso County, Colorado, except a tract of land located in the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the above said Section 20, more particularly described as follows:

Beginning at the Northwest corner of said Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; thence Easterly along the North line of said Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ a distance of 200 feet; thence Southerly parallel to the West line of said Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ a distance of 200 feet; thence Westerly parallel to the North line of said Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ a distance of 200 feet to a point on the West line of said Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; thence Northerly along said West line 200 feet to the point of beginning.

