

Mono County Community Development Department

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Planning Division

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NOTICE OF DECISION Director Review 20-015 29-Year Renewal/Mammoth-Pacific Unit II

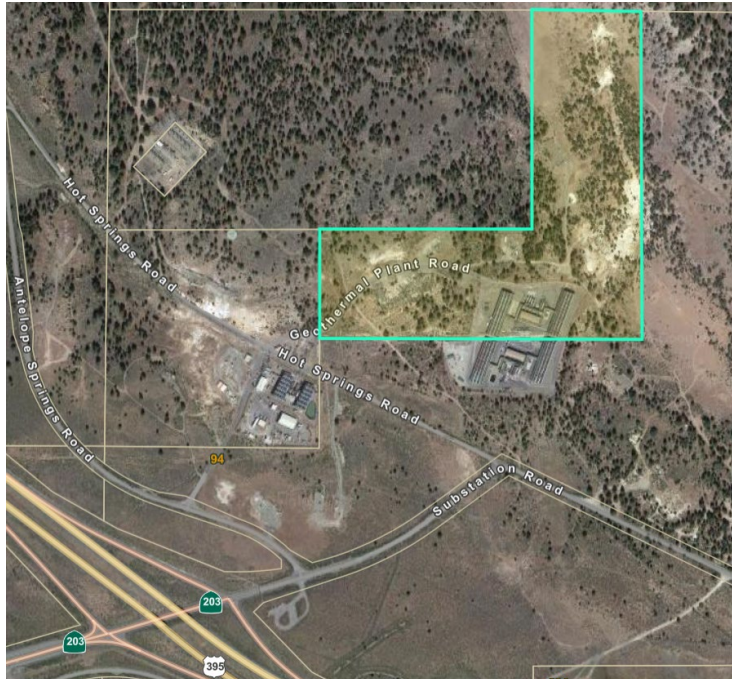
APPLICANT: Mammoth Pacific L.P.

SUBJECT PROPERTY: Unassigned address on Geothermal Plant Road, Mammoth Vicinity Planning Area, APN 037-050-005.

PROPOSAL: Renew Use Permit OIE 86-02 for 29-year during which Mammoth Pacific LP will obtain a reclamation bond for the Mammoth Pacific Unit II geothermal plant.

Pursuant to the Mono County General Plan, Chapter 31 Director Review Procedures, based upon the following findings, you are hereby notified that Director Review 20-014 has been:

Granted as requested.
 Granted subject to the attached Conditions of Approval.
 Denied



BACKGROUND

Director Review 20-015 would permit a 29-year renewal of Use Permit OIE-86-02 for Mammoth Pacific Unit II (MP-II) geothermal power plant located on a Resource Extraction (RE) designated parcel near the junction of US Highway 395 and State Route 203 on Geothermal Plant Road (APN 037-050-005). Use Permit OIE 86-02 was approved by the Board of Supervisors via Resolution 88-82 in December 1988 and MP-II began operation in December 1990. OIE 86-02 approved “a binary geothermal power plant project, including one 12 MWe (nominal) geothermal power plant unit, four geothermal production wells, four geothermal injection wells, well pads, access roads, sumps, surface pipelines, an electrical interconnection facility and attendant surface facilities.”

The Use Permit for MP-II is unique in that the language of the permit specifies in section A(5) that the “permit is valid for a period of thirty (30) years from the date of firm project operation.” The MP-II facility began operation in December 1990 and the thirty-year time period was due to expire December 2020. Per section A(8) of OIE 86-02, “minor amendments” to the text of this permit are allowed (full text below) after consultation with the Planning Director and County Counsel.

(8) Minor Amendments:

After consultation with Mono County Planning Director and County Counsel, the MCEMD may permit minor amendments to the project layout, uses permitted, plans required under this permit, and conditions of this conditional Use Permit. Any such amendments shall be request in writing by the Permit Holder.

No Actions pursuant to any such request shall be taken without the written permission of the MCEMD. The amendments shall be consistent with the use permitted and conditions of this permit and shall not result in increased environmental impacts.

Director Review permit 20-014, approved December 23, 2020, renewed Use Permit OIE 86-02 for one year under the minor amendments provision to allow sufficient time for Mammoth Pacific LP to obtain a new reclamation bond for MP-II. No significant operational changes are proposed. As part of the renewal process, Mammoth Pacific LP submitted an updated reclamation cost estimate for site reclamation based on updated Reclamation Plan 12-001. The updated cost estimate submitted by Mammoth Pacific was validated by a third-party engineering firm (Eastern Sierra Engineering) and was accepted by the Community Development Department for the sum of \$1,424,590. Condition of Approval three required the applicant to submit a fully executed reclamation bond for the updated reclamation cost estimate and apply for a second Director Review permit to initiate the full 29-year renewal by December 31.2021. The second Director Review permit (DR 20-015) seeks to renew the permit for another 29-years and includes administrative updates and corrections to the text of the permit.

The project parcel is surrounded entirely by the Resource Management (RM) parcels of the Inyo National Forest, with the exception of two privately owned parcels, one of which is a Southern California Edison substation and the other is the site of Mammoth Pacific Unit I (MP-I) which is also owned by the project applicant. There are three geothermal plants in the immediate area (a fourth geothermal plant is currently under construction), MP-I, MP-II (the subject geothermal plant), and PLES-1 (see Figure 1).

FIGURE 1: GEOTHERMAL PLANT LOCATIONS



DISCUSSION

As part of the renewal of Use Permit OIE 86-02, administrative and technical changes were made to the language of the original permit. Please see below for notable administrative and technical changes to the permit:

- Section A(1) permit holder address updated.
- Section A(5) updated the relevant inclusive dates renewing the permit for an additional twenty-nine-years (new expiration date of December 2050) and updated/added current County Code and General Plan citations for clarification.
- Section A(7) add language transferring the inspection authority of the Mono County Energy Management Director (MCEMD), a Department which no longer exists, to the Mono County Community Development Department Director. Changed all subsequent MCEMD references in the permit to CDD Director.
- Section B(4) added language requiring an update to the Emergency Spill Containment Plan as part of the renewal.
- Section E(9) adding the relevant Code of Federal Regulations citation.
- Section L updating language associated with the site reclamation bond.

LAND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE (LDTAC)

The LDTAC accepted the application for processing at the November 1, 2021, meeting. LDTAC reviewed the draft conditions of approval at the December 6, 2021, meeting.

DIRECTOR REVIEW FINDINGS

Under Mono County General Plan, Land Use Element, Chapter 31.030, the Community Development Department director may issue a Director Review permit after making all the following findings:

1. *All applicable provisions of the Land Use Designations and Land Development Regulations are complied with, and the site of the proposed use is adequate in size and shape to accommodate the use and to accommodate all yards, walls and fences, parking, loading, landscaping and other required features.*

The parcel is designated Resource Extraction (RE) which is intended to provide for the protection of the environment and resources extraction activities in a manner consistent with the Mono County General Plan and applicable state and federal laws. This designation specifically lists “exploring, drilling, and development of geothermal resources” as a permitted use subject to Use Permit. A Use Permit was approved in December 1988 for the MP-II geothermal plant and the project seeks a 29-year renewal of the permit that includes a new reclamation bond based the 2020 reclamation cost estimate and Reclamation Plan 12-001. The project does not propose to expand or add any new uses not currently permitted by the existing Use Permit and per the approval of OIE 86-02 the site meets setbacks, lot coverage, and relevant development standards.

2. *The site for the proposed use relates to streets and highways adequate in width and type to carry the quantity and kind of traffic generated by the proposed use.*

The project provides adequate access via Geothermal Plant Road and approval of DR 20-015 will not change the circulation patterns or impacts demonstrated over the past thirty years of MP-II operation.

3. *The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located.*

The proposed 29-year renewal of OIE 86-02 would not be detrimental to the public welfare or injurious to property or improvements in the area. OIE 86-02 included a thirty-year expiration date and per section A(8) of permit, “minor amendments” to the text of this permit are allowed (full text below) after consultation with the Planning Director and County Counsel. The project does not propose to expand or add any new uses not currently permitted by the existing Use Permit. Further, the original permit specified \$150,000 reclamation bond amount under Condition L, and the new reclamation cost amount of \$1,424,590 represents a significant change in cost to reclaim the site. Therefore, bonding under the new amount will help ensure that proper funds are reserved to properly implement the MP-II Reclamation Plan after operation stops at the site thereby reducing potential detrimental impacts to the area. In addition, minor administrative updates to the permit text will clarify and ensure proper reporting and communication between the applicant and the Community Development Department. A new requirement was included as part of these administrative updates for the applicant to check-in in writing with the Community Development Department every five years and at least one year prior to the 2050 expiration date to ensure proper communication between the two parties for next 29 years.

4. *The proposed use is consistent with the map and text of this General Plan and any applicable area plan.*

The property has a land use designation of RE, which allows geothermal plants subject to approval of a Use Permit. Both Countywide land use policies and Mammoth Vicinity Area Plan policies allow for geothermal plants and other resource extraction operations when facilities are implemented in a manner that maintains environmental quality and reduces visual impacts.

Mono County General Plan, Countywide Land Use Policies

GOAL 1. *Maintain and enhance the environmental and economic integrity of Mono County while providing for the land use needs of residents and visitors.*

Objective 1.A.

Accommodate future growth in a manner that preserves and protects the area's scenic, agricultural, natural, cultural and recreational resources and that is consistent with the capacities of public facilities and services.

Policy 1.A.1. *Contain growth in and adjacent to existing community areas.*

Policy 1.A.4. *Designate most lands outside existing community areas for low intensity uses (e.g., open space, agricultural, resource management). Higher-intensity uses (e.g., industrial, resource extraction, large-scale resort development) may be permitted outside existing community areas if it can be demonstrated that the use cannot be accommodated in existing community areas, that the use is incompatible with existing community uses, or that the use directly relies on the availability of unique onsite resources. Higher-intensity uses shall not adversely impact the area's scenic, recreational, cultural and natural resources.*

Action 1.A.4.b. *Development applications for higher-intensity uses outside community areas shall include an assessment of the potential significant environmental impacts as required by General Plan policies.*

Policy 1.A.6. Regulate future development in a manner that minimizes visual impacts to the natural environment, to community areas, and to cultural resources and recreational areas.

Action 1.A.6.a. Implement the Visual Resource policies in the Conservation/Open Space Element.

Policy 1.A.9. Regulate resource development projects in a manner that maintains environmental quality.

Action 1.A.9.d. Regulate geothermal development and other energy development projects in a manner consistent with the Energy Resources Policies in the Conservation/Open Space Element.

Action 1.A.9.e. Existing mining operations, geothermal operations, and other existing resource extraction operations, including salable materials operations (e.g., aggregate mining) have been designated Resource Extraction. Once these sites have been exhausted and reclaimed, the land use designation shall be revised to reflect the planned future land use.

Mono County Land Use Element, Mammoth Vicinity Area Plan

Objective 21.B.

Provide for the land use needs of both the incorporated and unincorporated areas.

Policy 21.B.1. Contain growth in and adjacent to existing developed areas.

Policy 21.B.4. Provide additional regional recreational facilities.

Action 21.B.4.b. Develop additional interpretive sites in the area, such as the proposed geothermal interpretive center, as funding becomes available.

Policy 21.C.4. Regulate geothermal and mining and reclamation activities in the Mammoth vicinity in a manner that retains the scenic, recreational, and environmental integrity of the Mammoth vicinity.

Action 21.C.4.a. All geothermal, mining and reclamation activities shall comply with the policies of the county Conservation/Open Space Element and the county Reclamation Ordinance.

Action 21.C.4.b. Geothermal and mineral extraction activities shall be allowed only in areas designated Resource Extraction; exploratory activities shall be allowed only in areas designated Resource Management, Open Space, or Agriculture.

5. The improvements indicated on the development plan are consistent with all adopted standards and policies as set forth in the Land Development Regulations, this General Plan and any applicable area plan.

The 29-year renewal of OIE 86-02 is consistent with Countywide Land Use policies, Mammoth Vicinity Area Plan policies, and the conditions of the existing permit. See Findings #1 and #4 above.

6. *The project is exempt from the California Environmental Quality Act (CEQA).*

This project qualifies for a Class 3 Categorical Exemption under CEQA Guideline 15301 which consists of operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. No new or expanded uses or structures are proposed as part of this renewal. This project qualifies under 15301 because the one-year renewal is minor amendment to the existing use permit.

ATTACHMENTS

- Attachment 1 – Use Permit OIE 86-02 with Exhibits
- Attachment 2 – 2020 MP-II Reclamation Cost Estimate
- Attachment 3 – Reclamation Plan 12-001 (Approved during Repowering of MP-I in 2012)
- Attachment 4 – 2021 Surety Bond

CONDITIONS OF APPROVAL

DR 20-015 is issued with the following conditions:

1. Future development shall meet requirements of the Mono County General Plan, Mono County Code, and project conditions.
2. Project shall comply with all Mono County Building Division, Planning Division, Public Works Department, and Environmental Health Department requirements.
3. The Permit Holder shall contact the CDD Director in writing every five years from the 2021 permit renewal date for an operational status check in. The Permit Holder shall contact the CDD Director at least one year prior to the 2050 expiration date of this permit if the Permit Holder wishes to renew this CUP.
4. Outdoor lighting must comply with General Plan Land Use Element Chapter 23 at a minimum, and the following additional standards:
 - A. Only full cutoff luminaires with light source downcast and fully shielded, with no light emitted above the horizontal plane, are permitted.
 - B. Only the minimum outdoor lighting is permitted for circulation and pedestrian areas. Pedestrian lighting is limited to low-level bollard lights.
 - C. LED lighting color temperature should be approximately 2300K and temperatures over 3000K are prohibited.
5. Termination. A Director Review shall terminate, and all rights granted therein shall lapse, and the property affected thereby shall be subject to all the provisions and regulations applicable to the land use designation in which such property is classified at the time of such abandonment, when any of the following occur:
 - A. There is a failure to commence the exercise of such rights, as determined by the Director, within two years from the date of approval thereof. Exercise of rights shall mean substantial construction or physical alteration of property in compliance with the terms of the Director Review.
 - B. There is discontinuance for a continuous period of one year, as determined by the Director, of the exercise of the rights granted.
 - C. No extension is granted as provided in Section 31.080.
8. Extension: If there is a failure to exercise the rights of the Director Review within one year of the date of approval, the applicant may apply for an extension for an additional one year. Any request for extension shall be filed at least 60 days prior to the date of expiration and shall be accompanied by the appropriate fee. Upon receipt of the request for extension, the Planning Division shall review the application to determine the extent of review necessary. Conditions of Approval for the Director Review may be modified or expanded, including revision of the proposal, if deemed necessary. The Planning Division may also deny the request for extension. Exception to this provision is permitted for those Director Reviews approved concurrently with a tentative parcel or tract map; in those cases, the approval period(s) shall be the same as for the tentative map.
9. Revocation: The Planning Commission may revoke the rights granted by a Director Review, and the property affected thereby shall be subject to all the provisions and regulations of the Land Use

Designations and Land Development Regulations applicable as of the effective date of revocation. Such revocation shall include the failure to comply with any condition contained in the Director Review or the violation by the owner or tenant of any provision pertaining to the premises for which such Director Review was granted. Before revocation of any permit, the commission shall hold a hearing thereon after giving written notice thereof to the permittee at least 10 days in advance of such hearing. The decision of the commission may be appealed to the Board of Supervisors in accordance with Chapter 47, Appeals, and shall be accompanied by an appropriate filing fee.

PREPARED BY: Kelly Karl, Associate Planner DATE OF DECISION: _____

SIGNED: _____
Wendy Sugimura, Community Development Director