

(First published in High Plains Daily Leader & Times on 4th day of November, 2021)t1

RESOLUTION NO. 2021-27

A RESOLUTION AMENDING RESOLUTION 2010-06 AND SUPERSEDING RESOLUTION 2019-13 FOR THE LIMITED PURPOSE OF PERMITTING CONSTRUCTION OF SIX MUD MATS PRIOR TO DELIVERY AND APPROVAL OF A FINAL DEVELOPMENT PLAN AND SATISFYING OTHER CONDITIONS

BEFORE the Board of County Commissioners (“Board”) of Seward County, Kansas (“County”):

WHEREAS, on the 5th day of April, 2010, the Board adopted Resolution 2010-06, which ratified, confirmed and approved the issuance of CUP No. CU 2010-01 to Cimarron Wind Project, LLC (“Cimarron”), subject to terms and conditions stated therein;

WHEREAS, Resolution 2010-06 further provided that the conditions required therein shall be satisfied within 18 months of the date of the resolution, or CUP No. CU 2010-01 will be considered void and a new CUP Application will have to be submitted and approved by the Board;

WHEREAS, the Board and Cimarron worked together to reach an agreement regarding a Road Maintenance and Easement Agreement, a Wind Farm Decommissioning Security Agreement, and other contracts agreeable to both parties, requiring an extension of time to July 5, 2012, in which to meet the conditions of Resolution 2010-06;

WHEREAS, this extension to July 5, 2012 was adopted through Resolution No. 2011-11;

WHEREAS, another extension was granted to July 5, 2013 through Resolution No. 2012-05;

WHEREAS, one of the terms and conditions of Resolution 2010-06 was that a final development plan be prepared by Cimarron and submitted to the Board;

WHEREAS, Cimarron advised the Board that due to certain critical details of the project’s design that could not yet be finalized, and in order to avoid costly revisions of the project design engineering, Cimarron needed additional time in which to complete and submit a final development plan, which shall be subject to the approval of the Board;

WHEREAS, for the reasons stated, Cimarron requested an indefinite postponement of the project plan requirements until such plans are definite and the actual configuration of the site and project are known, by which to meet the conditions of Resolution 2012-05 and CU 2010-01;

WHEREAS, the Board found there was good cause for Cimarron’s request for an indefinite period of time to meet the conditions as required by Resolution No. 2012-05 and CU 2010-01.

WHEREAS, on September 3, 2013, the Board adopted Resolution No. 2013-07 which essentially provided:

That Section 2 of Resolution 2010-06 shall be amended solely to provide and state that the time by which the conditions required by Resolution 2012-05 and CU 2010-01 must be met shall be extended indefinitely. PROVIDED HOWEVER, that Resolution 2013-07 may be amended by the Board, in its sole discretion, to set a time certain by which said conditions are to be met. The Board shall provide 60 days' notice to Cimarron prior to any meeting at which this resolution is proposed to be amended;

WHEREAS, Resolution No. 2013-07 also provided:

That all other provisions, terms and conditions of Resolution No. 2010-06 shall remain in full force and effect as originally adopted by the Board;

WHEREAS, the final development plan has yet to be delivered to and approved by the Board as required by Resolution No. 2010-06 and Resolution No. 2013-07;

WHEREAS, Thresher Wind Energy, LLC, a successor in interest to Cimarron, for financial reasons, requested that it be given limited authority in 2019 to construct two mud mats, which will be used for future wind turbine site work surfaces for wind turbine foundations, prior to delivery and approval of a final development plan and satisfaction of all other conditions set forth in Resolution 2010-06, Resolution 2013-07, and CU 2010-01;

WHEREAS, the Board through Resolution 2019-13 amended Resolution 2010-06 to allow for the construction of two mud mats and those mud mats were constructed pursuant to the authority of that resolution.

WHEREAS, Thresher Wind Energy, LLC, is now requesting the limited authority to construct another four muds mats for a total of six mud mats prior to prior to delivery and approval of a final development plan and satisfaction of all other conditions set forth in Resolution 2010-06, Resolution 2013-07, and CU 2010-01;

WHEREAS, the Board finds that the preliminary plans for construction of the four additional mud mats have been reviewed by County Planning and Zoning Staff and the mud mats were found by Staff to require relatively minimal construction; and

WHEREAS, Thresher Wind Energy, LLC informs after the mud mats are placed, the excavation will be backfilled and the site restored to its original condition.

WHEREAS, due to the foregoing, the Board finds good cause to amend Resolution 2010-06 in order to grant the limited request of Thresher Wind Energy, LLC to construct four additional mud mats for a total of six mud mats prior to delivery and approval of a final development plan and satisfaction of all other conditions set forth in Resolution 2010-06, Resolution 2013-07, and CU 2010-01.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. Resolution No. 2010-06 is hereby amended to include a new Section 7 which shall provide and state as follows:

Section 7.

Notwithstanding the foregoing, Thresher Wind Energy, LLC, a successor in interest to Cimarron, is given the limited authority, prior to meeting the remaining conditions required by this Resolution No. 2010-06, Resolution No. 2013-07, and CU 2010-01, to construct a total of six mud mats which will be used for future wind turbine site work surfaces for wind turbine foundations. It is recognized and confirmed that two of the six mud mats have been constructed as of November 1, 2021 pursuant to the limited authority granted under a previous version of this Section 7 as set forth in Resolution 2019-13. PROVIDED HOWEVER, that no additional construction (other than the construction of the four additional mud mats), of any nature, shall be permitted to begin until all conditions of this Resolution No. 2010-06, Resolution No. 2013-07, and CU 2010-01 are completely satisfied.

In constructing the six mud mats (“Scope of Work”), Thresher Wind Energy, LLC shall abide by all applicable laws, rules, codes, and regulations. Thresher Wind Energy, LLC and/or its contractor shall further be required to apply for and obtain building permits from the Seward County Planning and Zoning Department for the aforementioned Scope of Work prior to commencing construction. In applying for the building permit, Thresher Wind Energy, LLC and/or its contractor shall submit a full and complete Building Permit Application Form for each of the six mud mat sites, which will include a full legal description of the property where the construction will occur. The Building Permit Application Forms shall also be accompanied by all required documentation, including but not be limited to, written, executed consents to the construction from the land owner(s) of the property where the six mud mat sites are to be located. Construction of the mud mats shall commence prior to December 31, 2021.

2. All other provisions, terms, and conditions of Resolution No. 2010-06 and Resolution No. 2013-07 shall remain in full force and effect, except as specifically modified herein. Resolution No. 2019-13 is hereby superseded and replaced by this Resolution.

ADOPTED this 1st of November, 2021.

**BOARD OF COUNTY COMMISSIONERS
OF SEWARD COUNTY, KANSAS**

By: 
Ada Linenbroker, Chair

ATTEST:


Stacia Long, Clerk

