

**Conditions of Approval**

**Planning Services**

1. This Conditional Use Permit is based upon and limited to compliance with the project description, the following hearing exhibits, and conditions of approval set forth below:

Site 1-5, Exhibit A .....	Location Map
Site 1-5, Exhibit B.....	Assessor’s Parcel Map
Site 1-5, Exhibit C.....	General Plan Designation Map
Site 1-5, Exhibit D .....	Zoning DesignationMap
Site 1-5, Exhibit E.....	Aerial Map
Site 1-5, Exhibit F.....	Plan Set (11 pages)
Site 1-5, Exhibit G .....	Visual Simulations
Site 1-5, Exhibit H .....	Zoning Propagation Map
Site 1-5, Exhibit I.....	Radio Frequency Report
Site 1-5, Exhibit J.....	Proposed Mitigated Negative Declaration and Initial Study

Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

Conditional Use Permit allowing the construction and operation of five new multi-user wireless telecommunications facilities to support wireless transmission within five existing parcels (Site 1-5, Exhibit A) located throughout northern El Dorado County, identified by five individual Assessor’s Parcel Numbers (Site 1-5, Exhibit B). Each site would consist of the following:

- a. Five towers ranging in size from 115 to 160 feet (Site 1-5, Exhibit G), with one 35kw standby propane generator, one equipment shelter and one 500 gallon propane tank located upon a 1,050 square foot fenced leased area;
- b. Five 1,050-square foot equipment compounds surrounded by chain link fencing with slats and two rows of barbed wire on top; and
- c. Creation of five new driveways to provide access to each site.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and

the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

### **Planning Department**

2. In compliance with County Code Section 130.54.060, implementation of the project must occur within 24 months of approval of this permit, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with Conditions of Approval.
3. The applicant shall assume full responsibility for resolving television reception interference or other electrical interference caused by the operation of this facility. The applicant shall take corrective action within 30 days of the receipt of any written complaint.
4. All equipment shelters, cabinets or other auxiliary structures shall be painted in a matching color to comply with the screening requirements of Section 130.40.130.D.1 of the County Code. The pole and the radio frequency antennas shall be painted with non-reflective. Planning Services shall verify the painting of all structures prior to final inspection and approval of the facility.
5. All improvements associated with the communication facility, including equipment shelters, antennae, and fencing shall be properly maintained at all times. Colors of the panels, equipment enclosure, and other improvements visible to the public shall be maintained to ensure the appearance remains consistent.
6. Prior to issuance of a building permit or commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services prior to Building Permit final for any Building Permit for verification of compliance with applicable Conditions of Approval.
7. All obsolete or unused communication facilities shall be removed within six months after the use of that facility has ceased or the facility has been abandoned. The applicant shall notify Planning Services at the time of abandonment and all disturbance related to the communication facility shall be restored to pre-project condition.
8. Due to the ever-changing technology of wireless communication systems, this Conditional Use Permit shall be reviewed by the Planning and Building Department every five years. At each five-year review, the permit holder shall provide the Planning and Building Department with a status report on the then current use of the subject site and related equipment to include dated photos of the tower and equipment. The Planning Services Commission shall review the status and determine whether to:

- a. Allow the facility to continue to operate under all applicable conditions; or
- b. Hold a public hearing to determine whether to modify the conditions of approval in order to reduce identified adverse impacts; or initiate proceedings to revoke the conditional use permit, requiring the facility's removal if it is no longer an integral part of the wireless communications system.

By operation of this condition, it is the intent of County to reserve the right to modify or add new conditions, consistent with the language specified above. The failure of the County to conduct or complete a five-year review in a timely fashion shall not invalidate the Conditional Use Permit. The applicant shall pay a fee determined by the Planning and Building Department Director to cover the cost of processing a five-year review on a time and materials basis.

9. The operator (lessee) and property owner (lessor) are responsible for complying with all conditions of approval contained in this Conditional Use Permit. Any zoning violations concerning the installation, operation, and/or abandonment of the facility are the responsibility of the owner and the operator.
10. The following shall be incorporated as a note on the grading/improvement plans:

In the event archeological resources are discovered during grading and construction activities, the applicant shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place. If the find is determined to be a "unique archeological resource", contingency funding, and a time allotment sufficient to allow recovering an archeological sample or to employ one of the avoidance measures may be required under the provisions set forth in Section 21083.2 of the Public Resources Code. Construction work could continue on other parts of the project site while archeological mitigation takes place.

If the find is determined to be a "unique archeological resource", the archaeologist shall determine the proper method(s) for handling the resource or item in accordance with Section 21083.2(b-k). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken or the site is determined a "nonunique archeological resource".

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

11. The following shall be incorporated as a note on the grading/improvement plans:

In the event of the discovery of human remains, all work shall cease and the County coroner shall be immediately notified pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner

of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in Section 5097.98 of the Public Resources Code, with the most likely descendants regarding their recommendations. The descendants shall complete their inspection and make their recommendation within 48 hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials or other proper method(s) for handling the remains in accordance with Section 5097.98(b-h). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken.

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

12. All outdoor lighting shall conform to Section 130.34 of the Zoning Ordinance, and be fully shielded pursuant to the Illumination Engineering Society of North America's (IESNA) full cut-off designation. Any light fixture that does not have a specification sheet submitted with the building permit that specifically states that fixture meets the full cutoff standards, shall require a fixture substitution that meets that requirement.

Should final, installed lighting be non-compliant with full shielding requirements, the applicant shall be responsible for the replacement and/or modification of said lighting to the satisfaction of Development Services.

13. In accordance with California Fish and Game Code Section 711.4, the project is subject to a fee after approval, but prior to the County filing the Notice of Determination (NOD) on the project. The current fee plus a \$50.00 filing fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The payment is forwarded to the State Department of Fish and Wildlife and is used to help defray the cost of managing and protecting the State's fish and wildlife resources. The NOD must be filed within five working days from the project approval. The filing of the NOD begins the statute of limitations time period for when litigation may be filed against the County's action on the project. If the NOD is filed the statute of limitations ends 30 days from its filing. If no NOD is filed, it ends 180 days from the date of final action by the County.
14. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the

costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The developer and land owner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a Conditional Use Permit.

### **Mitigation Measures (All Sites)**

15. Mitigation Measure #1:

Special-Status Bat Species:

A qualified biologist shall conduct a preconstruction survey within 14 days prior to clearing or grading operations and removal of trees. If no bats are observed, a letter report shall be prepared to document the survey. If construction does not commence within 14 days of the pre-construction survey, or halts for more than 14 days, an additional survey is required prior to starting work.

If special-status bat species are present and roosting on or within 100 feet of the Study Area, then the biologist shall establish an appropriate buffer around the roost site. At minimum, no trees shall be removed until the biologist has determined that the bat is no longer roosting in the tree. Additional mitigation measures for bat species, such as installation of bat boxes or alternate roost structures, would be recommended only if special-status bat species are found to be roosting within the project area.

Pre-construction worker awareness training shall be conducted alerting workers to the presence of and protections for various bat species.

16. Mitigation Measure #2:

All vegetation clearing including removal of trees and shrubs shall be completed between September 1 and February 14, if feasible. If vegetation removal and grading activities begin during the nesting season (February 15 to August 31), a qualified biologist shall conduct a pre-construction survey of the project footprint for active nests. Additionally, the surrounding 500 feet shall be surveyed for active raptor nests where accessible. The pre-construction survey shall be conducted within 14 days prior to commencement of ground-disturbing activities. If the pre-construction survey shows that there is no evidence of active nests, a letter report shall be prepared to document the survey. If construction does not commence within 14 days of the pre-construction survey, or halts for more than 14 days, an additional survey is required prior to starting work.

If nests are found and considered to be active, the project biologist shall establish buffer zones to prohibit construction activities and minimize nest disturbance until the young have successfully fledged. Buffer width will depend on the species in question,

surrounding existing disturbances, and specific site characteristics, but may range from 20 feet for some songbirds to up to 500 feet for raptors. If active nests are found within any trees slated for removal, then an appropriate buffer shall be established around the trees and the trees shall not be removed until a biologist determines that the nestlings have successfully fledged or until the nest is no longer active. In addition, a pre-construction worker awareness training shall be conducted alerting workers to the presence of and protections for the active avian nests. If construction activities are proposed to begin during the non-breeding season (September 1 through January 31), a survey is not required and no further studies are necessary.

### **Mitigation Measures (Site Specific)**

#### 17. Mitigation Measure #3 (Site Sierra Springs)

##### Oak Woodland

Alteration of on-site individual oak trees and oak tree woodland, or the implementation of on-site work that may affect on-site oak trees, including their canopy or root systems, shall adhere to the adopted Oak Resource Management Plan (ORMP). In addition, a project specific technical report and mitigation plan addressing impacts to on-site individual oak trees and oak tree woodlands consistent with the guidelines and regulations of the adopted ORMP must be prepared and approved by the County prior to project approval. The technical report must disclose the percentage of impacted oak woodland on-site and the related mitigation plan must indicate the appropriate mitigation ratio and mitigation type, consistent with the requirements of the ORMP. This shall be completed prior to issuance of building permits.

Monitoring Requirement: The applicant shall provide a project specific technical report and mitigation plan addressing impacts to on-site oak woodlands prior to on-site work which may affect oak trees, including their canopy or root systems. The applicant shall also provide evidence of implementation of mitigation through provision to the County evidence of a deed restriction or conservation acquisition, in-lieu fee payment, on-site replacement planting and deed restriction or conservation easement; on-site replacement planting, or any combination thereof, consistent with the ORMP.

##### Monitoring Responsibility: Planning Services

- ~~• The applicant is required to comply with the Interim Interpretive Guidelines for El Dorado County General Plan Policy 7.4.4.4, which are oak canopy retention standards: The applicable requirement is to retain at least 70% of the existing canopy cover, and the project adheres to the tree canopy retention standards by retaining almost 100% percent of the existing canopy cover.~~
- ~~• The Replacement Provisions of Policy 7.4.4.4 also require the project to replace woodland habitat removed at 1:1 ratio, thus the project shall replace 0.005 acres of~~

~~woodland to be planted on-site or off-site, in the form of one one-gallon tree to the satisfaction of the Planning and Building Department Director. Replacement (and execution of related maintenance and monitoring agreements) shall be completed to the County's satisfaction prior to final grading or building inspection of the project.~~

18. Mitigation Measure #3 (Site 4 Balderson Station)

Oak Woodland

Alteration of on-site individual oak trees and oak tree woodland, or the implementation of on-site work that may affect on-site oak trees, including their canopy or root systems, shall adhere to the adopted Oak Resource Management Plan (ORMP). In addition, a project specific technical report and mitigation plan addressing impacts to on-site individual oak trees and oak tree woodlands consistent with the guidelines and regulations of the adopted ORMP must be prepared and approved by the County prior to project approval. The technical report must disclose the percentage of impacted oak woodland on-site and the related mitigation plan must indicate the appropriate mitigation ratio and mitigation type, consistent with the requirements of the ORMP. This shall be completed prior to issuance of building permit.

Monitoring Requirement: The applicant shall provide a project specific technical report and mitigation plan addressing impacts to on-site oak woodlands prior to on-site work which may affect oak trees, including their canopy or root systems. The applicant shall also provide evidence of implementation of mitigation through provision to the County evidence of a deed restriction or conservation acquisition, in-lieu fee payment, on-site replacement planting and deed restriction or conservation easement; on-site replacement planting, or any combination thereof, consistent with the ORMP.

Monitoring Responsibility: Planning Services

- ~~• The applicant is required to comply with the Interim Interpretive Guidelines for El Dorado County General Plan Policy 7.4.4.4, which are oak canopy retention standards: The applicable requirement is to retain at least 85% of the existing canopy cover, and the project adheres to the tree canopy retention standards by retaining approximately 95% percent of the existing canopy cover.~~
- ~~• The Replacement Provisions of Policy 7.4.4.4 also require the project to replace woodland habitat removed at 1:1 ratio, thus the project shall replace 0.04 acres of woodland to be planted on-site or off-site in the form of eight one-gallon trees to the satisfaction of the Planning and Building Department Director. Replacement (and execution of related maintenance and monitoring agreements) shall be completed to the County's satisfaction prior to final grading or building inspection of the project.~~

### **Environmental Management Department**

19. Under the Certified Unified Program Agencies (CUPA) program, if the operation will involve the storage of reportable quantities of hazardous materials (55 gallons, 500 pounds, 200 cubic feet) for backup power generation, a hazardous materials business plan for the site must be submitted online at the California Environmental Reporting System Website (<http://cers.calepa.ca.gov/>) and applicable fees paid to El Dorado Community Development Services / Environmental Management Department.
20. When filing our "Section 6: Construction and Demolition Debris Recycling Acknowledgement of the El Dorado County Building Permit Application, select Option 4 and write in "Towers" to the right of the sections. Towers are exempted from the construction and demolition (C&D) debris recycling requirements.

### **Air Quality Management District**

21. Asbestos Dust: *For APNs 092-031-52 & 099-130-05:* Current county records indicate this subject property is located within the Asbestos Review Area. An Asbestos Dust Mitigation Plan (ADMP) Application with appropriate fees shall be submitted to and approved by the AQMD prior to project construction if the project moves more than 20 cubic yards of soil. (Rules 223 and 223.2). The project shall adhere to the regulations and mitigation measures for fugitive dust emissions asbestos hazard mitigation during the construction process. Mitigation measures for the control of fugitive dust shall comply with the requirements of Rule 223 and 223.2.
22. Fugitive Dust: *For APNs 092-031-52, 093-160-08, 046-380-61, 061-720-55 & 099-130-05:* The project construction will involve grading and excavation operations, which will result in a temporary negative impact on air quality with regard to the release of particulate matter (PM<sub>10</sub>) in the form of dust. The project shall adhere to the regulations and mitigation measures for fugitive dust emissions during the construction process. In addition, a Fugitive Dust Mitigation Plan (DMP) Application with appropriate fees shall be submitted to and approved by the AQMD prior to start of project construction if a Grading Permit is required from the Building Dept. (Rules 223 and 223.1)
23. Paving: Project construction will involve road development and shall adhere to AQMD Cutback and Emulsified Asphalt Paving Materials (Rule 224).
24. Painting/Coating: The project construction may involve the application of architectural coating, which shall adhere to AQMD Rule 215 Architectural Coatings.
25. Open Burning: Burning of wastes that result from "Land Development Clearing" must be permitted through the AQMD. Only dry vegetative waste materials originating from the property may be disposed of using an open outdoor fire (Rule 300 Open Burning).



26. Construction Emissions: During construction, all self-propelled diesel-fueled engines greater than 25 horsepower shall be in compliance with the California Air Resources Board (ARB) Regulation for In-Use Off-Road Diesel Fueled Fleets (§ 2449 et al, title 13, article 4.8, chapter 9, California Code of Regulations (CCR)). The full text of the regulation can be found at ARB's website here: <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm> An applicability flow chart can be found here: [http://www.arb.ca.gov/msprog/ordiesel/faq/applicability\\_flow\\_chart.pdf](http://www.arb.ca.gov/msprog/ordiesel/faq/applicability_flow_chart.pdf) Questions on applicability should be directed to ARB at [1-866-634-3735](tel:1-866-634-3735). ARB is responsible for enforcement of this regulation.
27. New Point Source: Prior to construction/installation of any new point source emissions units (e.g., **emergency standby engine**, etc.), Authority to Construct applications shall be submitted to the AQMD. Submittal of applications shall include facility diagram(s), equipment specifications and emission factors. (Rule 501 and 523)

Portable Equipment: All portable combustion engine equipment with a rating of 50 horsepower or greater shall be registered with the California Air Resources Board (CARB). A copy of the current portable equipment registration shall be with said equipment. The applicant shall provide a complete list of heavy-duty diesel-fueled equipment to be used on this project, which includes the make, model, year of equipment, daily hours of operations of each piece of equipment.

### **Planning Commission**

28. Any routine maintenance that requires running the generators or automatic recycling of the generators shall be performed between the hours of 9:00 a.m to 5:00 p.m Monday through Friday.
29. The applicant shall provide to Planning Services, evidence of the condition of Victory Mine Road prior to issuance of Building Permits. After construction activities cease the applicant shall provide evidence to Planning Services of the post-construction condition of Victory Mine Road. Any damage sustained to Victory Mine Road by construction activities shall be repaired by the project applicant.