

Appendix B
NOP and Scoping Materials



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

Chris Bazar
Agency Director

Albert Lopez
Planning Director

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West Winton Ave
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Hayward
California
94544

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510.670.5400

fax
510.785.8793

www.acgov.org/cda

FROM: Sandra Rivera
Assistant Planning Director
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 110
Hayward, CA, 94544

SUBJECT: Notice of Preparation (Notice) of a Program Environmental Impact Report for the Altamont Pass Wind Resource Area (APWRA) revisions to Conditional Use Permits (CUPs) for repowering and continued maintenance and operation of wind turbines in Alameda County

SUMMARY:

The County of Alameda (County) is issuing this Notice to advise other agencies and the public that the County will be preparing a Program Environmental Impact Report (PEIR) for the Altamont Pass Wind Resource Area revised conditional use permits (CUPs)(proposed project) within the Alameda County portion of the APWRA in northern California. The County is proposing to issue revised CUPs to wind power companies that are currently operating wind turbines in the APWRA. The PEIR will be prepared in compliance with the California Environmental Quality Act (CEQA) and all relevant state and Federal laws. The County will serve as the lead agency under CEQA for preparation of the PEIR.

The County is issuing this Notice to alert interested parties and solicit public and agency input into the development of the scope of the PEIR and to advise the public that outreach activities conducted by the County and their representatives will be considered in the preparation of the PEIR.

Concurrent with preparation of this PEIR, the County is also preparing a Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) and joint Program Environmental Impact Statement/Environmental Impact Report (PEIS/PEIR) under the National Environmental Policy Act (NEPA) and CEQA, respectively. The United States Fish and Wildlife Service (Service) will serve as the federal lead agency under NEPA. This Notice is being issued to comply with CEQA requirements for the revised CUPs only. An additional, but separate, scoping process is anticipated to be held in fall of 2010 by the County and the Service for the HCP/NCCP PEIS/PEIR.

DATES: Written comments on the scope of the Altamont Pass Wind Power Resources Area PEIR, including the project objectives, the alternatives to be considered, the impacts to be evaluated, and the methodologies to be used in the evaluations, should be provided to the County by October 8, 2010. A public scoping meeting is scheduled on September 2, 2010 at the time and location listed below.

ADDRESSES: Written comments on the project scope should be sent to Sandra Rivera, Assistant Planning Director, ATTN: Altamont Pass Wind Resource Area CUP PEIR, Alameda County Community Development Agency, 224 W. Winton Avenue, Suite 110, Hayward, CA, 94544, or via email with subject line “Altamont Pass Wind Resource Area CUP PEIR” to: APWRACUPEIR@acgov.org . Comments may also be provided orally or in writing at the scoping meeting scheduled at the following location:

City of Dublin Public Library: Thursday, September 2, 2010
6:30 p.m. to 8:00 p.m.
200 Civic Plaza, Dublin, CA 94568

The project objectives, description of proposed repowering activities, revisions to the existing CUPs, and alternatives currently under consideration will be presented at this meeting. The meeting facilities will be accessible to persons with disabilities. If special translation or signing services or other special accommodations are needed, please contact Maria Palmeri, at 510.670.5400 or maria.palmeri@acgov.org at least 48 hours before the scoping meeting. Also scoping materials will be made available through the County’s Internet site: www.acgov.org/cda/planning/landuseprojects/currentprojects/.

FOR FURTHER INFORMATION CONTACT: Sandra Rivera, Assistant Planning Director, ATTN: APWRA CUP PEIR, Alameda County Community Development Agency, 224 W. Winton Avenue, Suite 110, Hayward, CA, 94544, or at (510) 670-5400.

SUPPLEMENTARY INFORMATION:

Scoping

The County invites all interested individuals, organizations, public agencies, and Native American Tribes to comment on the scope of the PEIR, including the project’s objectives, the alternatives to be studied, the impacts to be evaluated and the evaluation methods to be used. Comments should focus on alternatives that may be less costly or have fewer environmental or community impacts while achieving similar conservation and wind repowering objectives and the identification of any significant social, economic, or environmental issues related to alternatives.

The Proposed Project

The proposed project includes modification to existing CUPs for repowering of existing wind farms and the associated power operation and maintenance activities within the Alameda County portion of the APWRA. The County intends to modify its CUPs consistent with the conservation strategy in the HCP/NCCP. Updates to the CUP may include components unrelated to the conservation strategy that may have environmental impacts.

Upon completion of the APWRA HCP/NCCP, it is the intent of the County to amend the existing CUPs to include conservation actions related to repowering and long-term wind turbine operation and maintenance that will be defined in the HCP/NCCP. The amended CUPs will be applicable to all current and new wind farm projects in Alameda County so that any wind power

company seeking local permits will be subject to the avoidance and minimization measures developed under those plans.

In addition to modification of the existing CUPs, two existing CUP permittees, Altamont Winds LLC and NextEra Energy Resources LLC, have proposed individual projects for inclusion in the proposed project. These individual projects, the 95MW Summit Wind project proposed by Altamont Winds and the NextEra Wind Repowering Project proposed by NextEra are described in detail below.

Summit Wind Project

Altamont Winds LLC (Altamont Winds), an existing CUP permittee, has proposed the 95 MW Summit Wind Project (Summit project) for inclusion in the PEIR and approval as part of the updated CUPs. The Summit project will be located within a 7,650-acre area of the larger APWRA south of Interstate 580 (I-580). Multiple wind farms of approximately 148 MW currently exist in the proposed Summit project area. These wind farms consist of approximately 1,394 wind turbines of varying types, generally sited in strings along ridgelines, on lattice and tubular towers 60 feet to 140 feet in height. The types of wind turbines vary from 100kW to 370kW capacities. Other equipment, facilities and infrastructure associated with these wind turbines include turbine foundations, access roads, electricity collection systems, communication lines for turbine control and monitoring systems, meteorological towers, maintenance housing facilities, and wind farm offices and control center (some of which are located offsite).

As proposed, the Summit project will replace existing, aging wind farm equipment with modern wind turbines and deliver wind generated electrical energy to the Pacific Gas & Electric Company (PG&E). The project is comprised of four components to be implemented sequentially as described below.

Decommissioning and Reclamation of Existing Wind Farms. Existing wind turbines, pad mount transformers and electrical cabinets, and meteorological towers will be permanently taken out of service, dismantled and physically removed. Power poles and electrical overhead power lines will be removed where they are no longer required. Concrete foundations for the turbine towers, pad mount transformers/electrical cabinets, and meteorological towers will be removed to a depth of three feet below ground level, or buried/covered with three feet of top soil, and contour graded to conform to natural surrounding ground levels. The restored ground surfaces will be re-seeded to match pre-project conditions. Most of the existing access roads will be removed except when need to serve remaining facilities (such as preserved electrical infrastructure) during future project operations.

New wind farm construction. The proposed Summit project would erect sixty (60) wind turbines rated at 1,600 kW each that consist of a 3-bladed rotor, 271 feet in diameter, coupled to a rotor hub and an enclosed electrical generator (with supporting controls), all mounted on a tubular steel tower approximately 262 feet in height. The actual individual turbine selected at the time of project installation may vary from the above description depending on available technology. Similar to the existing wind farm, the proposed turbines will be constructed with supporting infrastructure, a 21 kV or 34.5 kV electrical collection system between the turbines, and transmission line take-off (generally buried underground except where site conditions

require overhead spans), turbine control and communications systems, other electrical/controls ancillary equipment, a substation for interconnection with the PG&E 115 kV transmission network, several permanent meteorological towers 262 feet in height, and one or more small equipment storage yards.

Operations and Maintenance. Following construction, the Summit project will be operated and maintained by PowerWorks LLC, an affiliate of Altamont Winds. PowerWorks operates and maintains over 900 wind turbines in the APWRA. Operations will be conducted using a remote control system that allows continuous monitoring and operation of the collective wind farm, as well as the individual wind turbines. Maintenance will involve both scheduled preventive and unscheduled repair work, both of which would utilize fully-equipped pickup trucks; however, on rare occasions, a crane may be needed to perform major unscheduled work. Operation and maintenance activities will function out of an existing facility, located within the APWRA, outside of, but near, the Summit project area.

Future Decommissioning and Reclamation. Altamont Winds intends to operate the proposed wind farm as long as it remains economically viable, but at least for 20 years, which is the typical life cycle for such facilities. When the proposed Summit project wind farm is no longer operable, it will be decommissioned and reclaimed using the same procedures as described above.

NextEra Wind Repowering Project

A second CUP permittee, NextEra Energy Resources, LLC, proposes to develop, construct, own and operate a 135.7 MW wind repowering project in the APWRA (NextEra project) under the updated CUP. The NextEra project site area is approximately 8,950 acres. The project boundary extends from the Contra Costa County and Alameda County boundary line on the north to various parcels south of the county line. It further extends to the south of I-580. Public roads will provide access to the NextEra project area, Altamont Pass Road, Flynn Road, Vasco Road, and Dyer Road. The NextEra project would be implemented with the same sequential components as described above for the Summit Wind project. Similar to the Summit Wind project, the NextEra project will remove existing turbines, and install up to fifty-nine (59) wind turbines, each of which would be approximately 428 feet in height to the tip of the blade and rated at 2.3 MW. Associated infrastructure would include reinforced concrete foundations for each wind turbine and their step-up transformers, local access roads, crane pads, a 34.5 kV electrical collection system, transmission line take-off, turbine control and communications systems, other electrical/controls ancillary equipment, substations for interconnections with the PG&E transmission network, and several permanent meteorological towers 262 feet in height. No new operations and maintenance facility construction would occur on the site. NextEra's existing facility located in Livermore would serve the project's operations and maintenance needs.

Construction of both the proposed Summit project and NextEra project are expected to occur in phases, with a typical duration of 8 to 12 months. The majority of construction activities will occur over a 4 month period during new wind turbine erection. It is anticipated that the Summit Wind project will begin interim construction periods as early as the fall of 2012, and continue

periodically into 2018. The NextEra project's start date is not known at this time; however, all phases of construction are anticipated for completion no later than 2018.

Alternatives

The PEIR will consider the proposed project and a reasonable range of alternatives. Alternatives to the project will include a No Project scenario, and at least one alternative to the proposed project. This alternative may vary by the level of conservation, repowering activities, planning area, or some combination of these or other factors. The County welcomes comments from the public on the alternatives that should be considered.

To evaluate the potential environmental effects of the proposed project and its alternatives, the County intends to prepare a PEIR. Key issues that will be evaluated in the PEIR include:

- biological resources,
- land use planning and socioeconomics,
- aesthetics and visual resources,
- cultural resources,
- noise, and
- cumulative impacts.

Project Background

Wind turbines are currently operated under existing CUPs updated by the County in 2005. The majority of the permits were further amended in 2007 to incorporate requirements for Settling Party wind companies, which are discussed in more detail below. The following summarizes key dates, provisions, and decisions made that relate to the 2005 and 2007 CUP amendments.

- On November 13, 2003, and on January 29, 2004, the East County Board of Zoning Adjustments (EBZA) approved CUPs for the continued maintenance and operation of wind turbines in APWRA. The EBZA concluded that its decision to issue the CUPs was categorically exempt from CEQA. The Center for Biological Diversity (CBD), Californians for Renewable Energy (CARE), and Golden Gate Audubon Society (Audubon) appealed these approvals to the Alameda County Board of Supervisors.
- On September 22, 2005, the Alameda County Board of Supervisors upheld the decision of the EBZA to grant the CUPs with the inclusion of several conditions advocated by CBD, CARE and Audubon, including:
 1. An environmental impact report (EIR) is required that evaluates wind farm operation and a repowering program.
 2. Existing permits will expire in 13 years (2018).
 3. An APWRA Scientific Review Committee will be formed.
 4. An Avian Wildlife Protection Program & Schedule will be implemented, including seasonal shutdown and removal of high risk turbine requirements, and a schedule to remove turbines for repowering in increments of 10% by September 2009, 35% by 2013, 85% by 2015, and 100% by the end of the CUP term in 2018.

- Shortly thereafter, CARE and Audubon petitioned the Alameda County Superior Court for a writ of mandate to set aside the County's issuance of the CUPs on various grounds, including that the action violated the County's General Plan and CEQA.
- Extensive negotiations led in November 2006 to a Settlement Agreement among members of the Settling Parties. The Settlement Agreement had seven key provisions, summarized below.
 1. Wind companies will reduce avian raptor mortality by 50% by November 2009. This condition is applicable to four raptor species: golden eagle, burrowing owl, American kestrel, and red-tailed hawk.
 2. If the desired reduction is not achieved, an adaptive management program will be instituted and Alameda County will act on any needed permit modifications, provided the measures are consistent with the objectives of the Settlement Agreement.
 3. Higher risk turbines will be removed or relocated within 30 days of the Settlement Agreement.
 4. Additional high risk turbines will be removed or relocated by October 31, 2008.
 5. Shutdowns will be modified in the winter of 2007–2008 for data consistency.
 6. Companies may paint blades of up to 450 turbines as an experiment to reduce avian mortality.
 7. Parties will develop an NCCP applicable to activities of turbine owners and operators only. (Note: this effort was later expanded to include a HCP to cover species listed under the federal Endangered Species Act)
- On January 11, 2007, the County amended the CUPs of the Settling Party wind companies consistent with the terms of the Settlement Agreement. The amended CUPs were approved by the County concurrently with the County's approval of the Settlement Agreement. The approval of the amended CUPs allowed the wind power companies to continue producing wind energy while further reducing raptor mortality in the APWRA and meeting other provisions of the Settlement Agreement.

EIR Process and the Role of Participating Agencies and the Public

The County encourages broad participation in the EIR process during scoping and review of the resulting environmental documents. Comments and suggestions are invited from all interested agencies and the public at large so that the full range of issues related to the proposed project and all reasonable alternatives are addressed and that all significant issues are identified. In particular, the County is interested in learning whether there are areas of environmental concern where there might be a potential for significant impacts. For all potentially significant impacts, the PEIR will identify mitigation measures where feasible, to reduce these impacts to a level below significance.

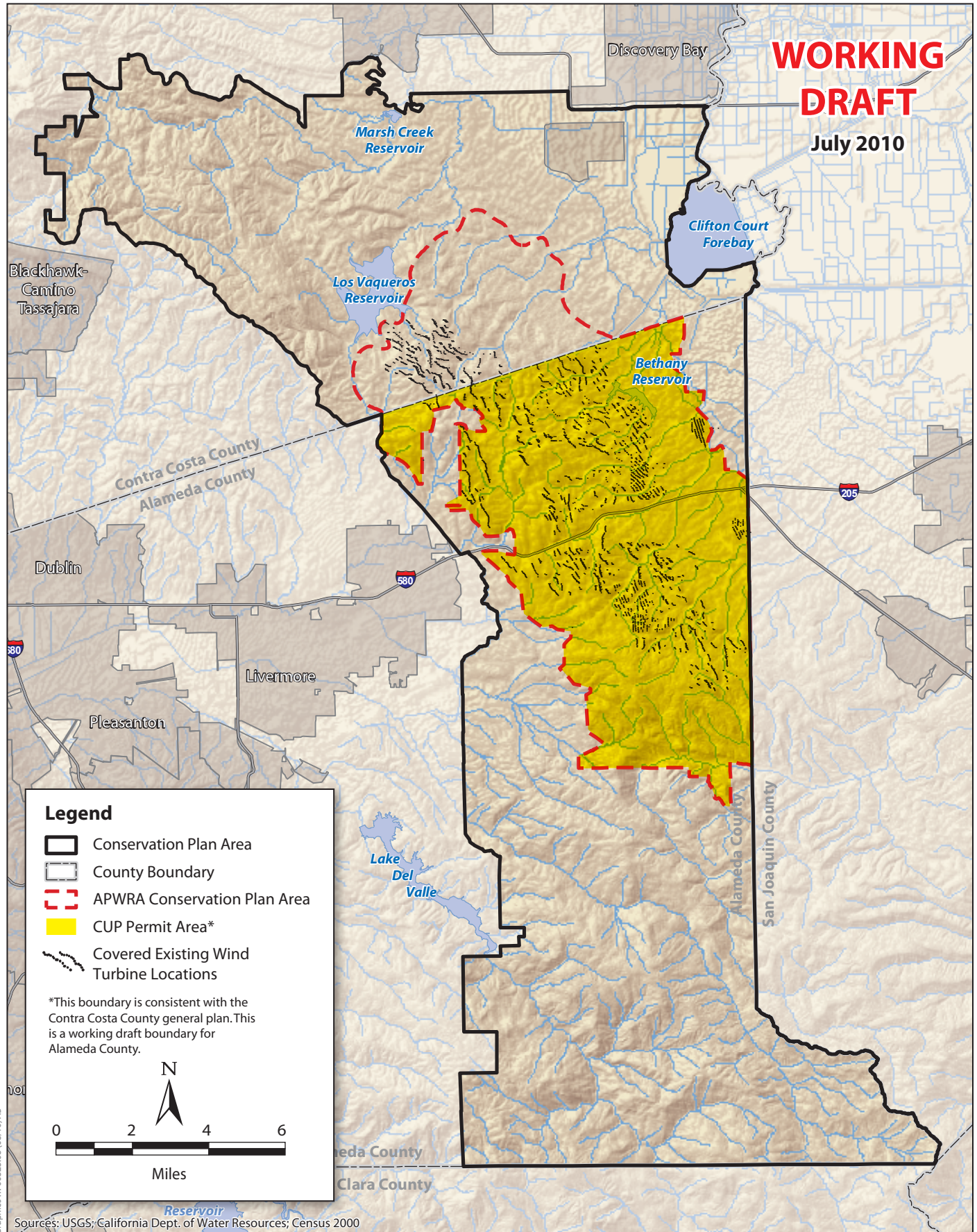
Public agencies with jurisdiction are requested to advise the County of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed project. Public agencies are requested to advise the County if they anticipate taking a major action in connection with the proposed project and if they wish to cooperate in the preparation of the PEIR.

A public scoping meeting has been scheduled as an important component of the scoping process for compliance with state environmental law. Details of the scoping meeting described in this Notice will be advertised in local newspapers and on the County's internet site:
www.acgov.org/cda/planning/landuseprojects/currentprojects.

Due to the time limits mandated by state law, public agencies are requested to send their responses to this Notice to the County at the address provided above at the earliest possible date but not later than 45 days after receipt of this Notice. Members of the general public should provide scoping comments by October 8, 2010.

**WORKING
DRAFT**

July 2010



APWRA Conservation Plan Area and CUP Permit Area



Arnold Schwarzenegger
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Cathleen Cox
Acting Director

Notice of Preparation

August 24, 2010

To: Reviewing Agencies

Re: Altamont Pass Wind Resource Area Revised Conditional Use Permits
SCH# 2010082063

Attached for your review and comment is the Notice of Preparation (NOP) for the Altamont Pass Wind Resource Area Revised Conditional Use Permits draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process:

Please direct your comments to:

Sandra Rivera
Alameda County Community Development Agency-Planning
224 W. Winton Avenue, Room 111
Hayward, CA 94544

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Attachments
cc: Lead Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2010082063
Project Title Altamont Pass Wind Resource Area Revised Conditional Use Permits
Lead Agency Alameda County

Type NOP Notice of Preparation
Description Modification to existing CUPs for repowering (replacement of towers and turbines) of existing wind farms and associated power operation and maintenance activities within the Alameda County portion of the Altamont Pass Wind Resource Area. The modified CUPs will be consistent with a concurrent program for a Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). Updates to the CUPs may include components unrelated to the HCP/NCCP that may have environmental impacts. Two individual repowering projects will also be included as part of the program, the 95 MW Summit Wind project proposed by Altamont Winds, Inc., and the 135.7 MW project proposed by NextEra Energy Resources, LLC.

Lead Agency Contact

Name Sandra Rivera
Agency Alameda County Community Development Agency-Planning
Phone 510-670-5400 **Fax**
email
Address 224 W. Winton Avenue, Room 111
City Hayward **State** CA **Zip** 94544

Project Location

County Alameda
City Livermore, Tracy, Unincorporated
Region
Cross Streets
Lat / Long
Parcel No.
Township **Range** **Section** **Base**

Proximity to:

Highways I-580
Airports Livermore City
Railways
Waterways
Schools
Land Use Large Parcel Agriculture

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Biological Resources; Cumulative Effects; Vegetation; Wetland/Riparian

Reviewing Agencies Resources Agency; Department of Conservation; California Energy Commission; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Game, Region 3; Native American Heritage Commission; Public Utilities Commission; State Lands Commission; Caltrans, Division of Aeronautics; Caltrans, District 4; Department of Toxic Substances Control; Regional Water Quality Control Board, Region 2

Date Received 08/24/2010 **Start of Review** 08/24/2010 **End of Review** 09/22/2010

NOP Distribution List

CAC

County: Alameda

SCH# 2010082063

Regional Water Quality Control Board (RWQCB)

Resources Agency

- Resources Agency
Nadell Gayou
- Dept. of Boating & Waterways
Mike Sotelo
- California Coastal Commission
Elizabeth A. Fuchs
- Colorado River Board
Gerald R. Zimmerman
- Dept. of Conservation
Rebecca Salazar
- California Energy Commission
Eric Knight
- Cal Fire
Allen Robertson
- Central Valley Flood Protection Board
James Herota

Office of Historic Preservation
Ron Parsons

Dept of Parks & Recreation
Environmental Stewardship Section

California Department of Resources, Recycling & Recovery
Sue O'Leary

S.F. Bay Conservation & Dev't. Comm.
Steve McAdam

Dept. of Water Resources
Resources Agency
Nadell Gayou

Conservancy

Fish and Game

- Depart. of Fish & Game
Scott Flint
Environmental Services Division
- Fish & Game Region 1
Donald Koch

Fish & Game Region 1E
Laurie Hamsberger

Fish & Game Region 2
Jeff Drongesen

Fish & Game Region 3
Charles Amor

Fish & Game Region 4
Julie Vance

Fish & Game Region 5
Don Chadwick
Habitat Conservation Program

Fish & Game Region 6
Gabrina Gatchel
Habitat Conservation Program

Fish & Game Region 6 I/M
Brad Henderson
Inyo/Mono, Habitat Conservation Program

Dept. of Fish & Game M
George Isaac
Marine Region

Other Departments

Food & Agriculture
Steve Shaffer
Dept. of Food and Agriculture

Depart. of General Services
Public School Construction

Dept. of General Services
Anna Garbeff
Environmental Services Section

Dept. of Public Health
Bridgette Binning
Dept. of Health/Drinking Water

Independent Commissions, Boards

Delta Protection Commission
Linda Flack

Cal EMA (Emergency Management Agency)
Dennis Castrillo

Governor's Office of Planning & Research
State Clearinghouse

Native American Heritage Comm.
Debbie Treadway

Public Utilities Commission
Leo Wong

Santa Monica Bay Restoration
Guangyu Wang

State Lands Commission
Marina Brand

Tahoe Regional Planning Agency (TRPA)
Cherry Jacques

Business, Trans & Housing

Caltrans - Division of Aeronautics
Sandy Hesnard

Caltrans - Planning
Terri Pencovic

California Highway Patrol
Scott Loetscher
Office of Special Projects

Housing & Community Development
CEQA Coordinator
Housing Policy Division

Dept. of Transportation

Caltrans, District 1
Rex Jackman

Caltrans, District 2
Marcelino Gonzalez

Caltrans, District 3
Bruce de Terra

Caltrans, District 4
Lisa Carboni

Caltrans, District 5
David Murray

Caltrans, District 6
Michael Navarro

Caltrans, District 7
Elmer Alvarez

Caltrans, District 8
Dan Kopulsky

Caltrans, District 9
Gayle Rosander

Caltrans, District 10
Tom Dumas

Caltrans, District 11
Jacob Armstrong

Caltrans, District 12
Chris Herre

Cal EPA

Air Resources Board

Airport Projects
Jim Lerner

Transportation Projects
Douglas Ito

Industrial Projects
Mike Tollstrup

State Water Resources Control Board
Regional Programs Unit
Division of Financial Assistance

State Water Resources Control Board
Student Intern, 401 Water Quality Certification Unit
Division of Water Quality

State Water Resources Control Board
Steven Herrera
Division of Water Rights

Dept. of Toxic Substances Control
CEQA Tracking Center

Department of Pesticide Regulation
CEQA Coordinator

RWQCB 1
Cathleen Hudson
North Coast Region (1)

RWQCB 2
Environmental Document Coordinator
San Francisco Bay Region (2)

RWQCB 3
Central Coast Region (3)

RWQCB 4
Teresa Rodgers
Los Angeles Region (4)

RWQCB 5S
Central Valley Region (5)

RWQCB 5F
Central Valley Region (5)
Fresno Branch Office

RWQCB 5R
Central Valley Region (5)
Redding Branch Office

RWQCB 6
Lahontan Region (6)

RWQCB 6V
Lahontan Region (6)
Victorville Branch Office

RWQCB 7
Colorado River Basin Region (7)

RWQCB 8
Santa Ana Region (8)

RWQCB 9
San Diego Region (9)

Other _____

Last Updated on 07/12/10

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SC# 010082063

Project Title: Altamont Pass Wind Resource Area Revised Conditional Use Permits Notice of Preparation

Lead Agency: Alameda County Community Development Agency - Planning Contact Person: Sandra Rivera

Mailing Address: 224 W. Winton Ave, Rm 111 Phone: 510.670.5400

City: Hayward Zip: 94544 County: Alameda County

Project Location: County: unincorporated Alameda County City/Nearest Community: cities of Livermore and Tracy

Cross Streets: _____ Zip Code: _____

Longitude/Latitude (degrees, minutes and seconds): _____ ° _____ ' _____ " N / _____ ° _____ ' _____ " W Total Acres: _____

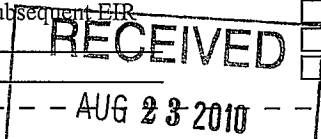
Assessor's Parcel No.: _____ Section: _____ Twp.: _____ Range: _____ Base: _____

Within 2 Miles: State Hwy #: I-580 Waterways: _____

Airports: City of Livermore Airport Railways: _____ Schools: _____

Document Type:

- | | | | |
|---|--|------------------------------------|--|
| CEQA: <input checked="" type="checkbox"/> NOP | <input type="checkbox"/> Draft EIR | NEPA: <input type="checkbox"/> NOI | Other: <input type="checkbox"/> Joint Document |
| <input type="checkbox"/> Early Cons | <input type="checkbox"/> Supplement/Subsequent EIR | <input type="checkbox"/> EA | <input type="checkbox"/> Final Document |
| <input type="checkbox"/> Neg Dec | (Prior SCH No.) | <input type="checkbox"/> Draft EIS | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Mit Neg Dec | Other: _____ | <input type="checkbox"/> FONSI | |



Local Action Type:

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> General Plan Update | <input type="checkbox"/> Specific Plan | <input type="checkbox"/> Rezone | <input type="checkbox"/> Annexation |
| <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Master Plan | <input type="checkbox"/> Use Permit | <input type="checkbox"/> Redevelopment |
| <input type="checkbox"/> General Plan Element | <input type="checkbox"/> Planned Unit Development | <input type="checkbox"/> Land Division (Subdivision, etc.) | <input type="checkbox"/> Coastal Permit |
| <input type="checkbox"/> Community Plan | <input type="checkbox"/> Site Plan | | <input type="checkbox"/> Other: _____ |

Development Type:

- | | |
|---|---|
| <input type="checkbox"/> Residential: Units _____ Acres _____ | <input type="checkbox"/> Transportation: Type _____ |
| <input type="checkbox"/> Office: Sq.ft. _____ Acres _____ Employees _____ | <input type="checkbox"/> Mining: Mineral _____ |
| <input type="checkbox"/> Commercial: Sq.ft. _____ Acres _____ Employees _____ | <input checked="" type="checkbox"/> Power: Type <u>Wind Turbine</u> MW <u>230.7 (initial)</u> |
| <input type="checkbox"/> Industrial: Sq.ft. _____ Acres _____ Employees _____ | <input type="checkbox"/> Waste Treatment: Type _____ MGD _____ |
| <input type="checkbox"/> Educational: _____ | <input type="checkbox"/> Hazardous Waste: Type _____ |
| <input type="checkbox"/> Recreational: _____ | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Water Facilities: Type _____ MGD _____ | |

Project Issues Discussed in Document:

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> Aesthetic/Visual | <input type="checkbox"/> Fiscal | <input type="checkbox"/> Recreation/Parks | <input checked="" type="checkbox"/> Vegetation |
| <input checked="" type="checkbox"/> Agricultural Land | <input type="checkbox"/> Flood Plain/Flooding | <input type="checkbox"/> Schools/Universities | <input type="checkbox"/> Water Quality |
| <input checked="" type="checkbox"/> Air Quality | <input type="checkbox"/> Forest Land/Fire Hazard | <input type="checkbox"/> Septic Systems | <input type="checkbox"/> Water Supply/Groundwater |
| <input type="checkbox"/> Archeological/Historical | <input type="checkbox"/> Geologic/Seismic | <input type="checkbox"/> Sewer Capacity | <input checked="" type="checkbox"/> Wetland/Riparian |
| <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Minerals | <input type="checkbox"/> Soil Erosion/Compaction/Grading | <input type="checkbox"/> Growth Inducement |
| <input type="checkbox"/> Coastal Zone | <input type="checkbox"/> Noise | <input type="checkbox"/> Solid Waste | <input type="checkbox"/> Land Use |
| <input type="checkbox"/> Drainage/Absorption | <input type="checkbox"/> Population/Housing Balance | <input type="checkbox"/> Toxic/Hazardous | <input checked="" type="checkbox"/> Cumulative Effects |
| <input type="checkbox"/> Economic/Jobs | <input type="checkbox"/> Public Services/Facilities | <input type="checkbox"/> Traffic/Circulation | <input type="checkbox"/> Other: _____ |

Present Land Use/Zoning/General Plan Designation:

Large Parcel Agriculture

Project Description: (please use a separate page if necessary)

Modification to existing CUPs for repowering (replacement of towers and turbines) of existing wind farms and associated power operation and maintenance activities within the Alameda County portion of the Altamont Pass Wind Resource Area. The modified CUPs will be consistent with a concurrent program for a Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). Updates to the CUPs may include components unrelated to the HCP/NCCP that may have environmental impacts. Two individual repowering projects will also be included as part of the program, the 95 MW Summit Wind project proposed by Altamont Winds, Inc., and the 135.7 MW project proposed by NextEra Energy Resources, LLC. A more detailed project description is provided in the attached Notice of Completion.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "X".
If you have already sent your document to the agency please denote that with an "S".

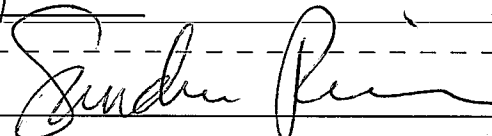
- | | |
|--|--|
| <input type="checkbox"/> Air Resources Board | <input type="checkbox"/> Office of Emergency Services |
| <input type="checkbox"/> Boating & Waterways, Department of | <input type="checkbox"/> Office of Historic Preservation |
| <input type="checkbox"/> California Highway Patrol | <input type="checkbox"/> Office of Public School Construction |
| <input type="checkbox"/> Caltrans District # _____ | <input type="checkbox"/> Parks & Recreation, Department of |
| <input type="checkbox"/> Caltrans Division of Aeronautics | <input type="checkbox"/> Pesticide Regulation, Department of |
| <input type="checkbox"/> Caltrans Planning | <input checked="" type="checkbox"/> Public Utilities Commission |
| <input type="checkbox"/> Central Valley Flood Protection Board | <input type="checkbox"/> Regional WQCB # _____ |
| <input type="checkbox"/> Coachella Valley Mtns. Conservancy | <input type="checkbox"/> Resources Agency |
| <input type="checkbox"/> Coastal Commission | <input type="checkbox"/> S.F. Bay Conservation & Development Comm. |
| <input type="checkbox"/> Colorado River Board | <input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy |
| <input type="checkbox"/> Conservation, Department of | <input type="checkbox"/> San Joaquin River Conservancy |
| <input type="checkbox"/> Corrections, Department of | <input type="checkbox"/> Santa Monica Mtns. Conservancy |
| <input type="checkbox"/> Delta Protection Commission | <input type="checkbox"/> State Lands Commission |
| <input type="checkbox"/> Education, Department of | <input type="checkbox"/> SWRCB: Clean Water Grants |
| <input type="checkbox"/> Energy Commission | <input type="checkbox"/> SWRCB: Water Quality |
| <input checked="" type="checkbox"/> Fish & Game Region # <u>3</u> | <input type="checkbox"/> SWRCB: Water Rights |
| <input type="checkbox"/> Food & Agriculture, Department of | <input type="checkbox"/> Tahoe Regional Planning Agency |
| <input type="checkbox"/> Forestry and Fire Protection, Department of | <input type="checkbox"/> Toxic Substances Control, Department of |
| <input type="checkbox"/> General Services, Department of | <input type="checkbox"/> Water Resources, Department of |
| <input type="checkbox"/> Health Services, Department of | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Housing & Community Development | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Integrated Waste Management Board | |
| <input type="checkbox"/> Native American Heritage Commission | |

Local Public Review Period (to be filled in by lead agency)

Starting Date August 23, 2010 Ending Date October 8, 2010

Lead Agency (Complete if applicable):

Consulting Firm: <u>ICF International</u>	Applicant: <u>1) Altamont Winds, Inc.; 2) NextEra En. Res. LLC</u>
Address: <u>268 Grand Ave.</u>	Address: <u>1) 15850P Jess Ranch Rd.; 2) 6185 Industrial Way</u>
City/State/Zip: <u>Oakland, CA 94610-4724</u>	City/State/Zip: <u>1) Tracy, CA 95377; 2) Livermore, CA 94551</u>
Contact: <u>Seema SAIRAM</u>	Phone: <u>1) 925-724-0175; 2) 925-245-9411</u>
Phone: <u>510-433-8962 ((415) 677-7148)</u>	

Signature of Lead Agency Representative:  Date: 8/23/10

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS – M.S.#40

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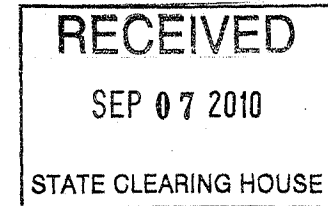


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September 1, 2010

Ms. Sandra Rivera
Alameda County Community Development Agency-Planning
224 W. Winton Avenue, Room 111
Hayward, CA 94544

NOP
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09/22/10
e.



Dear Ms. Rivera:

Re: Alameda County's Notice of Preparation of a Draft Environmental Impact Report for the Altamont Pass Wind Resources Area Revised Conditional Use Permit; SCH# 2010082063

The California Department of Transportation (Caltrans) Division of Aeronautics reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA).

The proposal is for the modification of the existing Conditional Use Permits in order to repower (replacement of) existing towers and turbines on wind farms including two individual repowering projects, the 95 MW Summit Wind project proposed by Altamont Winds, Inc, and the 135.7 MW proposal by NextEra Energy Resources, LLC. We noted that the new turbines and towers will exceed the heights of existing turbines and towers.

California Public Utilities Code Section 21659 prohibits structural hazards near airports. For all of the proposed structures that will exceed 200 feet in height, a Notice of Proposed Construction or Alteration (Form 7460-1) will be required by the Federal Aviation Administration (FAA) in accordance with Federal Aviation Regulation, Part 77 "Objects Affecting Navigable Airspace." Form 7460-1 is available on-line at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp> and should be submitted electronically to the FAA.

These comments reflect the areas of concern to the Division of Aeronautics with respect to airport-related noise, safety, and regional land use planning issues. We advise you to contact our District 4 office concerning surface transportation issues.

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-5314 or by email at sandy.hesnard@dot.ca.gov.

Sincerely,

Original Signed by

SANDY HESNARD
Aviation Environmental Specialist

c: State Clearinghouse, Alameda County ALUC



Bay Delta Region
7329 Silverado Trail
Napa, CA 94558
(707) 944-5500
www.dfg.ca.gov



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October 6, 2010

Ms. Sandra Rivera
Assistant Planning Director
Alameda County Community Development Agency
224 West Winton Avenue, Suite 110
Hayward, CA 94544

Dear Ms. Rivera:

Subject: Altamont Pass Wind Resource Area Conditional Use Permits, Programmatic Environmental Impact Report, SCH #2010082063, Alameda County

The Department of Fish and Game (Department) appreciates the opportunity to comment on the Notice of Preparation (NOP) of a Programmatic Environmental Impact Report (PEIR) for the Altamont Pass Wind Resource Area (APWRA) revisions to Conditional Use Permits (CUPs). Although the current CUPs will expire in 2018, preparation of the PEIR is obligated by the 2007 Settlement Agreement (Settlement Agreement) between Audubon, the wind companies, and the County of Alameda. The proposed project is intended to modify the existing CUPs to include conservation actions that are to be developed as part of the APWRA Habitat Conservation Plan/Natural Community Conservation Plan (APWRA Plan). Development of the APWRA Plan, or a similar agreement, is also obligated by the 2007 Settlement Agreement. However, if the APWRA Plan or a similar agreement is not agreed to, the PEIR may be used to modify the CUPs to be consistent with the Settlement Agreement.

In addition to the modifications of the existing CUPs, Altamont Winds LLC and NextEra Energy Resources LLC have proposed wind turbine repower projects to be included as part of the PEIR. Altamont Winds LLC has proposed the Summit Wind Project, consisting of approximately sixty 1.6-mega watt (MW) wind turbines on 7,650 acres, in the APWRA south of Interstate 580. Next Era Energy Resources LLC has proposed the NextEra Project, consisting of approximately fifty-nine 2.3 MW wind turbines on 8,900 acres, in the APWRA north and south of Interstate 580. These two projects combined would have an estimated installed capacity of 230.7 MW.

The PEIR NOP states that it is the intent of the County of Alameda to modify its CUPs consistent with the conservation strategy that is being developed as part of the APWRA Plan. The two repower projects included as part of the PEIR have a combined installed capacity that is nearly half of the 416 MW cap currently in place in the Alameda County portion of the APRWA. Under the draft Planning Agreement for the APRWA Plan, these two projects are to be treated as interim projects.

The Department is concerned that consideration of two significant repower projects in the early stages of the APWRA Plan development may exclude viable conservation strategies and opportunities, and as a result dictate the types of conservation strategies available to the APWRA Plan. The conservation strategies developed during the APWRA Plan process are designed to guide those aspects of project design that may, or are known to, impact biological resources. Consistent with Fish and Game Code Section 2800 et seq, known as the Natural Community Conservation Planning Act, the Department may provide recommended mitigation measures or project alternatives as part of the interim project process that would help achieve the preliminary conservation objectives. In addition to considering recommendations made during the interim project process, the Department suggests the PEIR describe how these two projects will remain responsive to viable conservation strategies and not preclude or limit their development.

Ongoing or recurring biological impacts associated with the operation of current and proposed wind turbine generators (WTGs) should be analyzed. The analysis needs to include both bat and avian species that may be affected. Current methodologies base impacts and mitigation on four focal raptor species, the Golden eagle, Red-tailed hawk, American kestrel, and Burrowing owl. While these species have been used for assessing impacts on older generation WTGs, changes in design of newer WTGs may result in effects on a different suite of species. It is important that impacts to all avian and bat species be evaluated when analyzing impacts. Additionally, impacts to biological resources associated with construction of new WTGs and the remediation of old WTGs should be analyzed.

Careful siting of turbines appears to be one of the most effective ways to reduce impacts to biological resources. Based upon consultation with the Altamont Scientific Review Committee, the Department, the U.S. Fish and Wildlife Service, and the best available scientific information, the PEIR should describe high risk placements of WTGs and prohibit them.

While careful siting of turbines can help minimize anticipated levels of mortality, unknown factors may result in particular turbines being especially high risk to avian and bat species. An adaptive management and monitoring plan should be developed to assess both high risk turbines and additional methods of minimizing bird and bats mortalities. To be effective, the adaptive management and monitoring plan must have actionable items that can reasonably be expected to result in a change in mortality. The determination of thresholds to trigger management actions should not be limited to the four focal raptor species or be based solely on averages among species, as this can obscure potentially significant effects at the species level.

On January 11, 2007 the Board of Supervisors of the County of Alameda adopted Resolution R-2007-111, amending 29 CUPs and approving two additional CUPs, so as to be consistent with the terms of the Settlement Agreement. The Department would like to call attention to, and comment upon, the items identified in Condition 8 of Resolution R-2007-111, as this condition identifies content to be contained in the PEIR. In italics below are excerpts from Condition 8, followed by the Department's comment:

- *The [P]EIR will assess the environmental impacts of the repowering program (including both specific proposals and the overall repowering program set forth herein), the continued operation of existing turbine facilities, and the effectiveness of the various strategies to reduce and minimize avian mortality and other adverse impacts on wildlife (such as new turbine technology, site-specific measures, grazing management, etc.).*

When assessing the environmental impacts, the Department recommends avoidance as the primary method of reducing impacts to biological resources. When this is no longer possible, a project should then explore the most effective methods to minimize impacts. Once avoidance and minimization measures have been exhausted the remaining impacts should be sufficiently mitigated. Additionally, mitigation for significant impacts identified in the PEIR should be mitigated consistent with the draft East Alameda County Conservation Strategy that was developed by local agencies, including Alameda County, and is supported by the Department.

- *The [P]EIR will seek to verify and validate current assumptions regarding the benefit of repowering as a means of substantially and significantly reducing the amount of avian injury and mortality resulting from most existing types of turbines, and identify appropriate means of ensuring that repowered turbines have the lowest possible rate of avian mortality.*

The assumption regarding new technology WTGs one MW and above is that larger turbines will result in fewer mortalities. This assumption needs to be validated with peer reviewed scientific research conducted on WTGs that are similar in rotor diameter and height in order to assess future impacts from repowering.

- *The [P]EIR shall also study siting in the Altamont as a whole, and may also address how to provide incentives for an increased rate of repowering, including expanding areas where wind power facilities may be permitted.*

Incentives for an increase rate of repowering should only be developed if it is shown that new generation WTGs reduce avian and bat fatality and mitigation measures can substantially reduce or compensate for mortalities. A proposed expansion of areas permitted for WTGs should not be contemplated until the ability to mitigate impacts from ongoing and proposed repower projects is assessed and realized. This assessment is beyond the scope of the PEIR and, as such, any expansion of WTGs should not be included.

The Department, as the Trustee Agency for fish and wildlife pursuant to the California Environmental Quality Act Section 15386, is responsible for the conservation, protection, and management of the State's biological resources. The Department acts as a Responsible Agency when a subsequent permit or other type of discretionary approval is required from the Department, such as an Incidental Take Permit (ITP), pursuant to the California Endangered Species Act, or a Lake and Streambed Alteration Agreement

Ms. Sandra Rivera
October 6, 2010
Page 4

(LSAA), issued under Fish and Game Code Section 1600 et seq. Based on the information we have been provided to date, activities identified in the PEIR NOP will likely require an ITP and LSAA.

The Department supports the development of renewable energy resources for projects which are in compliance with existing state and federal laws; include measures that when implemented effectively avoid and minimize impacts to native species and their habitats; include sufficient mitigation for unavoidable impacts; and provide for the conservation of biological resources. As both a Responsible Agency and Trustee Agency, the Department requests the opportunity to cooperate in the preparation of the PEIR in order to continue our close coordination with activities undertaken as part of the APWRA Plan.

If you have any questions, please contact Mr. Craig Weightman, Staff Environmental Scientist, at (707) 944-5577 or cweightman@dfg.ca.gov; or Mr. Scott Wilson, Environmental Program Manager, at (707) 944-5584.

Sincerely,



Charles Armor
Regional Manager
Bay Delta Region

cc: State Clearinghouse

Mr. Mike Thomas
U.S. Fish and Wildlife Service
2800 Cottage Way, W-2605
Sacramento, CA 95825



October 8, 2010

Sent via electronic mail on October 8, 2010 to APWRACUPEIR@acgov.org

Sandra Rivera
Assistant Planning Director
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 110
Hayward, CA, 94544

Thank you for the opportunity to comment on the Notice of Preparation of a Program Environmental Impact Report for the Altamont Pass Wind Resource Area (APWRA) revisions to Conditional Use Permits (CUPs) for repowering and continued maintenance and operation of wind turbines in Alameda County. The Center for Biological Diversity is a national non-profit conservation organization dedicated to the protection of endangered species and wild places.

Background

The Center has been involved since 2003 in efforts to reduce avian mortality at the APWRA; we have filed previous appeals on CUPs for APWRA, filed a lawsuit against energy companies for violations of state and federal wildlife laws, and participated in the County's review and revision of permit conditions from 2004 to 2007. The Center was not a party to the ill-advised settlement agreement in 2007 that revised and relaxed CUP permit conditions.

As a conservation organization involved with efforts to reduce greenhouse gas emissions, we believe that using alternative energy sources like clean wind energy is essential to reducing our impact on the environment. However, it is undisputed that the poorly sited wind turbines at APWRA continue to kill thousands of birds each year, including more than a thousand birds of prey from 40 different species, through collisions with turbines and electrocution on power lines. Located on a major bird migratory route in an area with large concentrations of raptors — including the highest density of breeding golden eagles in the world — APWRA is the most lethal wind farm in North America for birds of prey, causing massive ongoing kills of hawks, burrowing owls, falcons, golden eagles, and other raptor species. The original permits for the thousands of wind turbines at APWRA were issued without conducting an environmental impact report, contrary to requirements under the California Environmental Quality Act (CEQA). Some Altamont energy companies continue to use antiquated turbines that are poorly placed, inefficient, and a high risk to birds. According to wind-industry reports, the controversy over bird kills at Altamont Pass has hampered wind power development in other area as unresolved concerns about impacts to birds cause other wind facilities' construction to be delayed or operations to be discontinued. The ongoing bird kills at APWRA are in violation of California

and federal wildlife laws, including criminal provisions of those laws. These violations include California Fish and Game Code sections 2000, 3503.5, 3511, 3513, 3800, 12000, California Code of Regulations sections 472, 509; title 16 United States Code section 668 (the Bald Eagle and Golden Eagle Protection Act); title 16 United States Code section 703 (the Migratory Bird Treaty Act); and title 50 Code of Federal Regulations sections 10.13, 21.11, 22.11.

Wind energy can be produced without decimating wildlife populations, by reviewing siting of wind farms for bird abundance, migration, and use patterns, and designing and operating wind farms to prevent or minimize bird mortality. Existing wind facilities with adverse impacts on birds, such as the APWRA, should be required to reduce bird kills as much as possible, and mitigate fully by providing adequate compensation for any continuing impacts.

Recommendations made by the California Energy Commission to replace obsolete turbines with fewer, more efficient turbines, implement mitigation measures to reduce bird kills at existing turbines, and preserve off-site nesting habitat for raptors to compensate for ongoing unacceptable bird losses should be adopted at APWRA.

Failure to Implement Permit Conditions and Mitigation Measures

In January 2007 Alameda County reached a settlement agreement with Audubon regarding reduction of bird kills at APWRA that resulted in new permit conditions and mitigation measures. This controversial agreement scuttled existing permit conditions adopted by the Alameda County Board of Supervisors in September 2005 that conservation groups had worked three years to negotiate and implement. The key promise of the 2007 settlement agreement was a 50% reduction in kills of four focal raptor species within three years. Continued energy company violations of the settlement agreement and permit conditions have been documented since 2007, and Alameda County has attempted to subvert bird fatality reduction measures (Smallwood 2008). Mitigation recommendations made so the County's Scientific Review Committee have been grossly inadequate or have been ignored by the Altamont energy companies. Some simple mitigation recommendations made by the SRC have not been implemented, such as removing derelict towers, moving rock piles to manage rodent prey away from turbines, and removing the most lethal turbines. As the energy companies continue to miss deadlines for required mitigation measures, Alameda County simply revises the deadlines. Credible compliance monitoring with promised mitigation measures is non-existent because the County simply relies on industry reports of compliance. The energy companies have repeatedly refused to give requested data to the SRC.

Energy companies without approved repowering plans or verified compliance with SRC recommended mitigation measures should not be issued CUP permits.

Increased Raptor Mortality

The energy companies have not achieved the promised 50% reduction in raptor mortality over the three-year monitoring period. In fact, while Alameda County refuses to enforce permit conditions and promised mitigations, and energy companies refuse to implement them, raptor

mortality at APWRA appears to have increased significantly recently. Bird fatality rates at APWRA appear to have increased 85% for all raptors and 51% for all birds between the periods 1998–2003 and 2005–2007 (Smallwood and Karas 2009). A monitoring report by a consultant for the energy companies (WEST et al. 2007) documented more dead raptors collected at Altamont Pass over 1.5 years than were found by California Energy Commission researchers over 4.5 years from 1998-2003 (Smallwood and Thelander 2004), when annual raptor mortality was estimated at an alarming 881 to 1,300 birds of prey. Recent reports (e.g. Smallwood et al. 2006, 2007) that wind turbines at Altamont Pass likely kill over 100 burrowing owls annually, a significant number of the burrowing owls nesting at Altamont, making the wind farm a population sink for this imperiled species.

Scope of EIR and Proposed NCCP/HCP

The NOP states that: “Concurrent with preparation of this PEIR, the County is also preparing a Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) and joint Program Environmental Impact Statement/Environmental Impact Report (PEIS/PEIR) under the National Environmental Policy Act (NEPA) and CEQA, respectively. The United States Fish and Wildlife Service (Service) will serve as the federal lead agency under NEPA. This Notice is being issued to comply with CEQA requirements for the revised CUPs only. An additional, but separate, scoping process is anticipated to be held in fall of 2010 by the County and the Service for the HCP/NCCP PEIS/PEIR.”

The PEIR is for issuance of revised CUPs for the continued operation and repowering of wind turbines at APWRA. The NOP states that another CEQA and NEPA review will occur for a planned NCCP/HCP, which apparently would revise the CUPs again, making the current EIR/EIS obsolete. How can the EIR reach significance conclusions pursuant to CEQA prior to completion of the HCP/NCCP? Is the current EIR/EIS assuming that the HCP/NCCP avoidance and minimization measures will reduce impacts to a level of less than significant? The description appears to imply that the HCP/NCCP avoidance and minimization measures will be the primary method of mitigating impacts for existing projects. Given the history of ineffective mitigation agreements in the APWRA and Alameda County’s failure to enforce them or relaxing permit conditions based on false claims of compliance with CUPs (Smallwood 2008), the failure to achieve any reduction of avian fatality rates at APWRA over two decades of agreements and mitigation plans, the disturbing magnitude of the ongoing environmental impacts, and the limited suite of mitigation options the County is willing to consider, no further consideration should be given to another EIR/EIS for a NCCP/HCP.

The NOP gives the misleading impression that a mitigation strategy prepared for the NCCP/HCP would be superior to the strategy in the PEIR. The available suite of mitigation measures have been reviewed by the SRC for four years. Three of the five SRC members have been involved with fatality monitoring and research in the APWRA for periods spanning 11 to 21 years. It is highly unlikely that the committee convened to guide the NCCP/HCP -- composed mostly of individuals with little if any experience in the APWRA -- will develop a mitigation strategy that is more effective than a strategy developed by the SRC.

It is unclear whether the current EIR/EIS will analyze biological effects cumulatively or on a project by project basis. Analyzing impacts cumulatively will potentially deemphasize the effects of the existing projects due to potential benefits derived from repowering. Furthermore, combining the existing CUPs and the two repowering projects into a single 'project' for purposes of CEQA is inappropriate. There should be separate EIRs for existing CUPs and repowering, with the EIR for existing CUPs analyzing operations of existing windfarms, and the repowering EIR analyzing removal of existing windfarms and siting and impacts of new windfarms.

Project Alternatives

The EIR/EIS should also include evaluation of alternatives that a) require complete repowering of APWRA to modern wind turbines with careful siting to minimize environmental impacts; and b) close the APWRA and remove all wind turbines.

Repowering

Repowered turbines should be sited according to guidelines and criteria to minimize collision hazards to birds and bats, and to minimize grading impacts by construction of access roads and turbine laydown areas. Siting should be guided by patterns of fatality rates among APWRA wind turbines, flight patterns of species of greatest concern (golden eagle, red-tailed hawk, American kestrel, burrowing owl), and the spatial distribution of burrowing owl burrows. Siting methods have been developed by Smallwood and Neher (2009), Smallwood et al. (2009), and Smallwood and Neher (2010). Post-construction fatality and utilization monitoring should be required for at least five years, so that the effects of repowering on fatality rates and habitat displacement (avoidance effects) can be quantified to inform future permit renewals and mitigation planning.

Continued Operation of Old Turbines

The SRC has recommended removal of turbines ranked 7 to 10 on a collision hazard scale and continuation of a four-month winter shutdown. Many of the SRC recommendations over the past four years have not been met according to deadlines or not followed at all (SRC document P-147). For example, the SRC repeatedly recommended that the CUP requirements be met, as fatality reductions could not be realized without mitigation actions being taken. The SRC also recommended that all unproductive turbines and vacant towers be removed. The wind companies should better inform the SRC of their actions, including which turbines were removed or relocated, and when the actions happened. The SRC recommended compliance monitoring by a trusted third party or by the SRC. The SRC requested power output data from the companies so that the SRC could test hypotheses related to patterns of collisions, leading to improved removal and relocation recommendations. The SRC recommended a focused burrowing owl behavior study in order to learn why burrowing owls are being killed at such high rates near wind turbines. The SRC also recommended a background mortality study, searcher detection trials, more aggressive behavior monitoring of flying birds, and timely processing of bird utilization monitoring. If the continued operations of old-generation turbines are to be considered in one or more PEIR alternatives, then the SRC's recommendations should be fully implemented. All old-

generation turbines that are allowed to continue operating should be monitored for fatalities until the turbines are removed.

Compensatory Mitigation

As long as horizontal-axis wind turbines operate in the APWRA, birds and bats will continue to be killed by moving turbine blades. Even if potential reduction in raptor mortality due to repowering can reach 80-85%, the remaining fatality rates will be significant. Because there is no fatality-reducing or fatality-minimizing mitigation measure that will reduce the impacts below a threshold of significance under CEQA, and impacts will continue for the life of the project, compensatory mitigation will be necessary. Compensatory mitigation payment should be required from all permittees on a per megawatt basis – this funding should go toward purchase of productive raptor habitat in the Altamont region in the form of land or conservation easements to compensate for avian mortality during permit operations.

Decommissioning and Reclamation of Existing Wind Farms

The NOP states that as repowering proceeds, power poles and electrical overhead lines will be removed, but only where they are “no longer needed.” The power poles and overhead lines kill numerous birds, although estimates of annual fatality rates caused by electrocution and line strikes have yet to be made. All power poles and overhead lines at APWRA should be removed and replaced by undergrounded lines.

Mitigation Monitoring

The EIR must include and describe in detail a credible mitigation monitoring plan. Mitigation monitoring conducted so far has been grossly inadequate (see SRC document P-148) and actions allegedly taken by energy companies are often in dispute. An effective and scientifically credible avian mortality monitoring program that is independent of the permittees is needed. Given the history of noncompliance with APWRA permit conditions, any mitigation plan for wind turbine-caused fatalities must include a performance bond to be credible.

Sincerely,

Jeff Miller
Conservation Advocate
Center for Biological Diversity
351 California Street, Suite 600
San Francisco, CA 94104
Phone: (510) 499-9185
E-mail: jmiller@biologicaldiversity.org

Citations

Smallwood, K. S., and C. Thelander. 2004. Developing methods to reduce bird mortality in the Altamont Pass Wind Resource Area. Final Report to the California Energy Commission, Public Interest Energy Research -Environmental Area, Contract No. 500-01-019, Sacramento, USA.

Smallwood, K. S. 2008. Wind power company compliance with mitigation plans in the Altamont Pass Wind Resource Area. *Environmental & Energy Law Policy Journal* 2(2):229-285.

Smallwood, K.S. and Karas. 2009. Avian and Bat Fatality Rates at Old-Generation and Repowered Wind Turbines in California. *Journal of Wildlife Management* 73(7).

Smallwood, K. S., and L. Neher. 2009. Map-Based Repowering of the Altamont Pass Wind Resource Area Based on Burrowing Owl Burrows, Raptor Flights, and Collisions with Wind Turbines. Final Report to the California Energy Commission, Public Interest Energy Research – Environmental Area, Contract No. CEC-500-2009-065. Sacramento, California. 63 pp.
<http://www.energy.ca.gov/2009publications/CEC-500-2009-065/CEC-500-2009-065.PDF>

Smallwood, K. S. and L. Neher. 2010. Siting Repowered Wind Turbines to Minimize Raptor Collisions at the Tres Vaqueros Wind Project, Contra Costa County, California. Draft Report to the East Bay Regional Park District, Oakland, California.

Smallwood, K. S., L. Neher, and D. A. Bell. 2009. Map-based repowering and reorganization of a wind resource area to minimize burrowing owl and other bird fatalities. *Energies* 2009(2):915-943. <http://www.mdpi.com/1996-1073/2/4/915>

WEST, Inc., University of California at Santa Cruz, Predatory Bird Research Group, BioResource Consultants Inc., Jones & Stokes. 2007. Avian Fatality Monitoring at Altamont Pass Winter 05 – Spring 07. Working Draft.

DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS – M.S.#40

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September 1, 2010

Ms. Sandra Rivera
Alameda County Community Development Agency-Planning
224 W. Winton Avenue, Room 111
Hayward, CA 94544



Dear Ms. Rivera:

Re: Alameda County's Notice of Preparation of a Draft Environmental Impact Report for the Altamont Pass Wind Resources Area Revised Conditional Use Permit; SCH# 2010082063

The California Department of Transportation (Caltrans) Division of Aeronautics reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA).

The proposal is for the modification of the existing Conditional Use Permits in order to repower (replacement of) existing towers and turbines on wind farms including two individual repowering projects, the 95 MW Summit Wind project proposed by Altamont Winds, Inc, and the 135.7 MW proposal by NextEra Energy Resources, LLC. We noted that the new turbines and towers will exceed the heights of existing turbines and towers.

California Public Utilities Code Section 21659 prohibits structural hazards near airports. For all of the proposed structures that will exceed 200 feet in height, a Notice of Proposed Construction or Alteration (Form 7460-1) will be required by the Federal Aviation Administration (FAA) in accordance with Federal Aviation Regulation, Part 77 "Objects Affecting Navigable Airspace." Form 7460-1 is available on-line at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp> and should be submitted electronically to the FAA.

These comments reflect the areas of concern to the Division of Aeronautics with respect to airport-related noise, safety, and regional land use planning issues. We advise you to contact our District 4 office concerning surface transportation issues.

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-5314 or by email at sandy.hesnard@dot.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Sandy Hesnard".

SANDY HESNARD

Aviation Environmental Specialist

c: State Clearinghouse, Alameda County ALUC

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



September 22, 2010

Alameda County Community Development Agency
Attn: Ms. Sandra Rivera
224 W. Winton Avenue, Room 111
Hayward, CA 94544



Notice of Preparation of an Environmental Impact Report for the Proposed Re-powering of Wind Generation Facilities Within the Altamont Pass Wind Resource Area, Cities of Livermore and Tracy, Alameda County, Delta Field Division, South Bay Aqueduct Milepost 0 - Milepost 7.14, SCH2010082063

Dear Ms. Rivera:

Thank you for the opportunity to review and comment on the Notice of Preparation (NOP) for an Environmental Impact Report for the proposed Wind Generation Facilities Re-powering Project within the portion of the Altamont Pass Wind Resource Area within Alameda County. The document describes a proposal by the Summit Wind (95 MW project) and Altamont Winds, Inc. (135.7 MW project) to replace and upgrade existing wind turbine and associated power generation equipment, with upgraded turbines and transformers. The proposed work will begin in 2012 and continue through 2018. Some of the access roads used by the operators of the wind turbine farms are also used by the Department of Water Resources (DWR) for maintenance of the South Bay Aqueduct (Aqueduct), part of the State Water Project, which is buried in three pipelines through the Altamont Pass Wind Resource Area.

DWR has reviewed the NOP and has the following comments regarding the proposed Wind Generation Facilities Re-powering Project:

1. DWR has recently completed constructing a new third pipeline, parallel to the two original barrels, from the South Bay Pumping Plant at Bethany Reservoir to the beginning of the open channel section of the Aqueduct near Dyer Road in Livermore. The access roads used by the Wind Farm operators cross over these pipelines in multiple locations throughout the nearly 3 linear miles of buried pipelines. DWR is concerned about the type and weight of the construction equipment crossing the pipelines and requests the opportunity to review and comment on a list of all proposed equipment prior to traffic crossing over the pipelines.

Ms. Sandra Rivera
September 22, 2010
Page 2

2. DWR is also concerned about maintenance of the primary access roads that are utilized by both the Wind Farm operators and DWR staff. The EIR should address the potential damage and responsibility for repair to the roads as a result of the construction activity involved in the proposed Re-powering Project.
3. Advance notice to DWR Delta Field Division and Headquarters is required prior to any work within DWR right of way. Contact Erdom Abraham of DWR Delta Field Division at (209) 833-2101 to coordinate a site visit.
4. Any construction work within DWR right of way may require an Encroachment Permit, which would be issued by DWR.

DWR's ongoing operations and maintenance activities shall not be disrupted during construction.

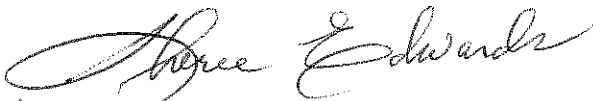
Information regarding forms and guidelines for submitting an application for an Encroachment Permit can be found at DWR web address:

http://www.doe.water.ca.gov/Services/Real_Estate/Encroach_Rel/index.cfm

Please provide DWR with a copy of any subsequent environmental documentation when it becomes available for public review.

If you have any questions, please contact Scott Williams at (916) 653-5746, or Leroy Ellinghouse of my staff at (916) 653-7168.

Sincerely,



for David M. Samson, Chief
State Water Project Operations Support Office
Division of Operations and Maintenance

9/14/10

Ms. Sandra Rivera
Assistant Planning Director
ATTN: Altamont Pass Wind Resource Area CUP PEIR
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 110
Hayward, CA 94544

Dear Ms. Rivera:

I attended the scoping meeting in Dublin on September 2, 2010 for the planned repowering projects. The following issues need to be addressed in the PEIR to reduce current land use impacts associated with wind farm generation equipment and the infrastructure and maintenance to support them to acceptable limits.

Prior to retirement in 2006 I was the Watershed and Lands Department Manager for the Contra Costa Water District with lands in Contra Costa and Alameda Counties that contained several hundred wind turbines.

From my seven years of on-the-ground experience on the Los Vaqueros Watershed (19,380 acres) I want to point out several serious impacts that are associated with the placement and maintenance of the wind turbines and all-weather roadway and drainage systems that the stated repowering projects must address.

A) All-Weather Roadway System:

Eliminate the in-sloped all-weather roadway system and storm-water drainage collection system and replace it with a 2% out-sloped all-weather roadway system that avoids the use of ditches and drop culverts on the inside edge of the roadside.

The current roadway drainage system utilizes culverts running under the roadway that concentrates water with erosive velocity and releases it onto

unprotected hill-slopes below the roadways. The result is substantial hill-slope erosion and excessive sedimentation that creates impacts in downstream waterways, ponds and wetlands.

For example:

Excessive sedimentation fills vernal pools, seasonal wetlands, ponds and reservoirs, reducing their effective long-term life as important water storage facilities on watershed lands.

Excessive sedimentation impacts protected habitats, plants, invertebrates and vertebrates that rely on these waterways and wetlands.

Excessive sedimentation accelerates eutrophication impacts in downstream water storage reservoirs such as Los Vaqueros.

Excessive sedimentation impacts invertebrate and fishery resources in downstream water storage reservoirs.

B) Reclamation of the current turbine pads, all-weather roadway system, inside ditches and culverts:

It is *easy* to make the comment that the current infrastructure for the wind farm facilities will be removed and the area returned to the condition it was in previous. However, based on my watershed management experience over the last 40-years I can say that it is exceedingly difficult to implement that statement honestly.

What will be done to *insure* land owners that the reclamation project will be successful and will not create soil wasting, excessive soil erosion and resulting sedimentation impacts?

Will all the road base rock that has been added to the roadway and pad systems be removed from the watershed or are you planning to re-use the material or stockpile it somewhere for future use?

Will the suite of non-native but indigenous and beneficial annual grasses and forbs be seeded over the areas reclaimed? Would the seeding be done by hand or by hydro-seeding? And, would this be accomplished before the first rains in October or in some other month?

Please note that re-seeding large areas with perennial plants (if that is contemplated) on the Los Vaqueros Watershed were exceedingly expensive, time consuming and were not successful.

Sandra: Just a Heads Up that the e-mail address listed to provide comments on the repowering project did NOT WORK. Sent it several times and each was returned.

Sincerely,



Robert C. Nuzum

Owner and Lead Scientist

Applied Natural Resource Management

www.nuzumconservation.com

1072 Juanita Drive

Walnut Creek, CA 94595

Certified Fisheries Scientist Emeritus



Ohlone Audubon Society, Inc.

*A chapter of the National Audubon Society
Serving Southern Alameda County, CA*

Sept.23, 2010

Sandra Rivera
Assistant Planning Director
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 110
Hayward, CA 94544

Subject: Notice of Preparation for Altamont Pass Wind Farms

Dear Ms. Rivera,

Ohlone Audubon Society has had a long standing interest in the wind farms on Altamont Pass. Needless to say we have been deeply concerned about avian mortality at that site.

Much effort has been expended to address the mortality factor while yet allowing a renewable energy project to go forward. But repowering the wind turbines cannot be allowed to go forward unless the 50% or more of bird kills are not reduced in the future starting with this repowering effort.

In the past the shutdowns were not completely implemented and to my knowledge the plan to paint some of the wind turbine blades did not happen. So I am concerned that mitigation and monitoring will be strictly enforced for this project.

There is some concern that some of the wind power companies are hoping to expand into eastern Alameda County. Ohlone Audubon wants to be sure that the current boundaries will be adhered to.

Also Ohlone Audubon Society wants a Scientific Review Committee established that will be totally creditable and its recommendations given full weight of adherence.

An Adaptive Management Plan needs to be in place in order to proceed in an orderly and scientifically sound manner in order to meet the avian mortality reduction goals set. It seems to us that either "take" or fines should be assessed if the wind turbine companies fail to carry out their repowering responsibilities in full as far as the safety of birds and we should add bats also as a concern..

Yours truly,

Evelyn M. Cormier, President
Ohlone Audubon Society
1922 Hillsdale St., Hayward CA 94541

RECEIVED SEP 27 2010



**CONTRA COSTA
WATER DISTRICT**

1331 Concord Avenue
P.O. Box H2O
Concord, CA 94524
(925) 688-8000 FAX (925) 688-8122
www.ccwater.com

Directors

Joseph L. Campbell
President

Karl L. Wandry
Vice President

Bette Boatman
Lisa M. Borba
John A. Burgh

Jerry Brown
General Manager

September 29, 2010

VIA FACSIMILE (510) 785-8793
Hard Copy to Follow

Ms. Sandra Rivera
Assistant Planning Director
Community Development Agency
Alameda County
224 W. Winton Ave., Suite 110
Hayward, CA 94544

Subject: Receipt of Request for Comments on a Notice of Preparation for a Program EIR for the Altamont Pass Wind Resource Area (APWRA) revisions to Conditional Use Permits (CUPs) for repowering and continued maintenance and operation of wind turbines in Alameda County

Dear Ms. Rivera:

The Contra Costa Water District (CCWD) is in receipt of the August 25, 2010 request for comments on a Notice of Preparation (NOP) for a Program Environmental Impact Report (EIR) for the Altamont Pass Wind Resource Area (APWRA) revisions to Conditional Use Permits (CUPs) for repowering and continued maintenance and operation of wind turbines in Alameda County. CCWD serves treated and untreated water to approximately 550,000 people in Central and Eastern Contra Costa County. CCWD owns the 100,000 acre-foot Los Vaqueros Reservoir and the approximately 20,000 acre watershed surrounding the reservoir within Contra Costa and Alameda Counties. Within the Los Vaqueros Watershed there are numerous existing wind turbines, but they are in limited areas.

A portion of the APWRA Conservation Plan area and CUP Permit area is within Los Vaqueros Watershed property owned by CCWD within Alameda County (see Figure 1, attached). CCWD recorded a conservation easement in favor of the California Department of Fish and Game (DFG) on September 8, 1994 for the protection of the San Joaquin Kit Fox and other wildlife species (Conservation Easement) and a portion of this easement area is within the APWRA. The shaded area within Figure 1 illustrates the Conservation Easement area that has been conveyed to the DFG by CCWD within Alameda and Contra Costa Counties.

Sandra Rivera
Community Development Agency
Alameda County
September 29, 2010
Page 2

The Conservation Easement is 4,150 acres and most of these lands are within Contra Costa County. However, the Conservation Easement extends into Alameda County. There are no existing wind turbines within the DFG Conservation Easement areas owned by CCWD in either Alameda or Contra Costa Counties.

Wind development within the Conservation Easement would require re-consultation of the September 3, 1993 U.S. Fish and Wildlife Service (USFWS) Biological Opinion (BO) on the construction and operation of the Los Vaqueros Reservoir within the Los Vaqueros Watershed. The USFWS BO describes land management objectives and practices for the Los Vaqueros Watershed property. The February 17, 1994 DFG Memorandum of Understanding (MOU) on the Los Vaqueros Project would also be subject to review should wind power be proposed within the Conservation Easement.

CCWD has not agreed to consider wind development agreements on properties it owns within the Conservation Easement area. Such an action could result in new resource agency (USFWS and DFG) consultations related to the Los Vaqueros Watershed and reservoir, and any implementation could result in significant impacts, including impacts to listed and other species within the Conservation Easement and the watershed as a whole. All APWRA environmental issues potentially affecting CCWD facilities and properties should be included in the EIR. CCWD requests that the APWRA Draft EIR fully acknowledge the Conservation Easement and that there is no agreement that wind development will be permitted in this area.

Please contact me at CCWD (925) 688-8119 should you have further questions.

Sincerely,



Mark A. Seedall
Principal Planner

MAS/jmt/rlr

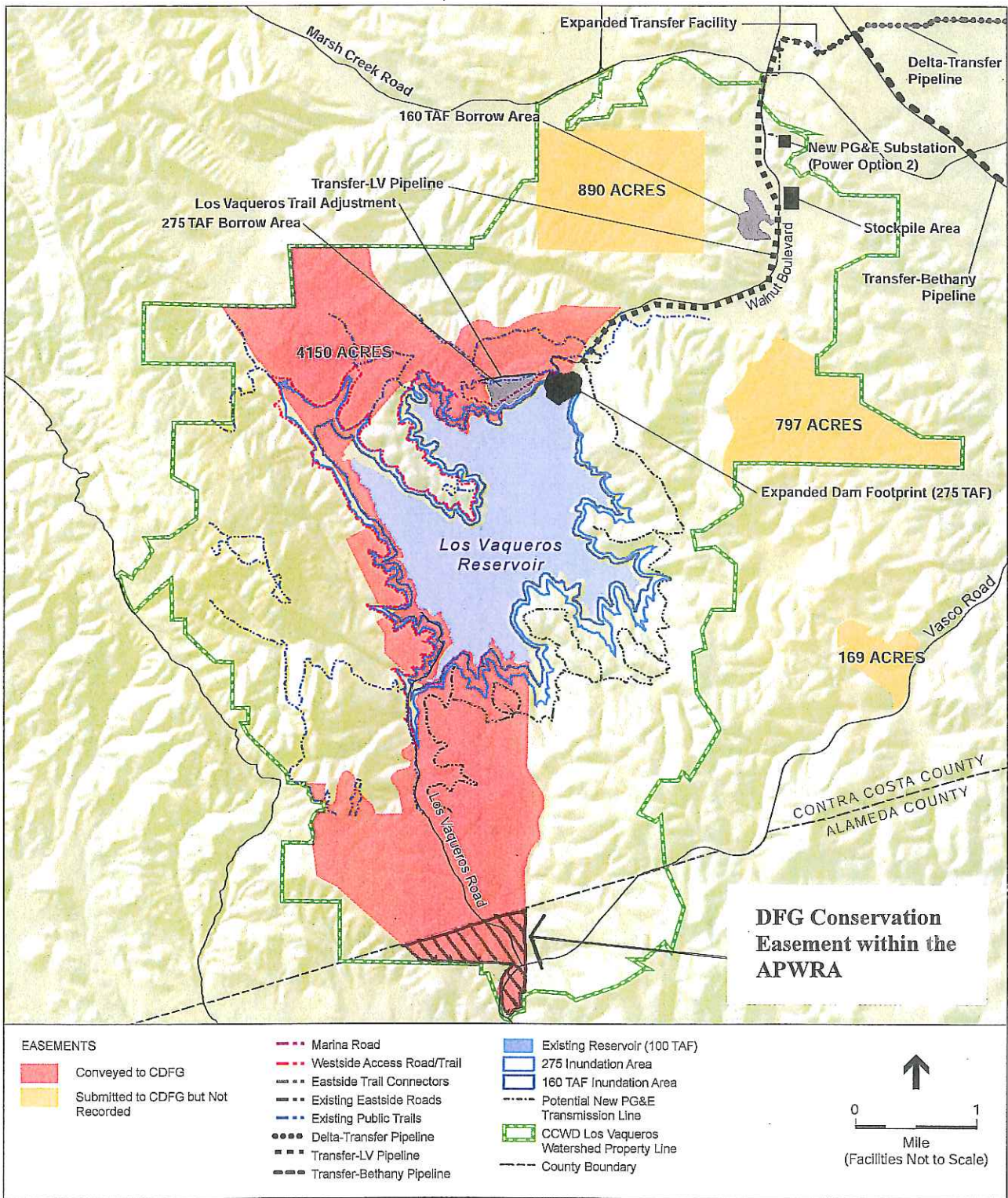
Attachment

cc: Ryan Olah USFWS
Scott Wilson DFG
Will Nelson Contra Costa County

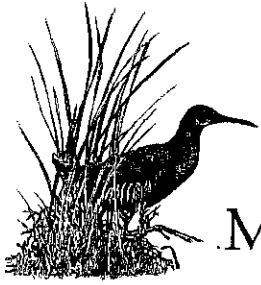
**Contra Costa Water District
 Los Vaqueros Watershed & California Dept. of Fish & Game Conservation
 Easement**

Figure 1

Altamont Pass Wind Resource Area NOP, September, 2010



SOURCE: USGS, 1993 (base map); CNDDDB, 2007; and ESA, 2007



Marin Audubon Soc

P.O. Box 599 | MILL VALLEY, CA 94942-0599 | MARINAUDUBON.ORG

Post-It® Fax Note 7671		Date 10/7/10	# of pages 3
To Sandra Rivera		From Gilman Seligman	
Co./Dept.		Water Resources	
Phone #		Phone # 415 924-6057	
Fax #		Fax #	

October 7, 2010

Sandra Rivera
 Assistant Planning Director
 Alameda County Community Development Agent
 224 W. Winton Avenue, Suite 110
 Hayward, CA 94544

RE: Notice of Preparation for the APWRA

Dear Ms. Rivera:

The Marin Audubon Society appreciates the opportunity to submit comments on the NOP for the Altamont Pass Wind Resource Area revisions to the Conditional Use Permits for repowering and continued maintenance. Altamont has a long history of environmental devastation particularly for golden eagles and other raptors. Because of our concern about the very significant impacts to raptor and other bird populations, Marin Audubon is a party to the Audubon law suit. Our goal is to ensure that impacts to avian resources are avoided or at least significantly reduced.

Repowering components of the current project as described in the notice of preparation include: for Summit Wind Project would replace 1,394 wind turbines, with 60 modern turbines, 150 feet tall, with 271 foot diameter blades on 7,650 acres; and for NextEra Project would install up to 59 turbines each approximately 428 feet high plus meteorological towers on 8,950 acres. The maintenance components of the project are not clearly defined.

The PEIR should be prepared with the following legal framework. CEQA requires that a program EIR provide the in-depth analysis of a large project, looking at effects "as specifically and comprehensively as possible." CEQA Guidelines § 15168(a), (c)(5). Because it looks at the big picture, a program EIR must provide "more exhaustive consideration" of effects and alternatives than can be accommodated by an EIR for an individual action, and must consider "cumulative impacts that might be slighted by a case-by-case analysis." CEQA Guidelines § 15168(b)(1)-(2). Further, a programmatic EIR "[allows the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility. . . ." CEQA Guidelines § 15168(b)(4). It is instead an opportunity to analyze impacts common to a series of smaller projects, in order to avoid repetitious analyses.

We request that the Draft PEIR provide the following:

Description of the project setting including vegetation and wildlife that currently use the site.

A detailed description of the proposed project, including description of proposed turbines and all other facilities, where they would be located where they will be placed, as well as anticipated maintenance actions. Specifically, because the NOP contains a brief but specific description of the proposed construction activities, it is unclear why a program EIR is being used. What other subsequent actions are proposed and/or anticipated.

A discussion of how the turbines differ from existing turbines and how they would be expected to impact birds and other wildlife differently. Where have they been used before and what were the impacts resulting from that use? Is it expected that adverse impacts from the whole of the project and from individual turbines would be avoided or reduced? Provide data to demonstrate that impacts would be expected to be avoided or reduced.

Evaluate the proposed location for the turbines. Discuss the bird use of the proposed area. Are there other less potentially damaging areas where that should be considered that would be less damaging to birds should be considered.

Summit's turbines would be encased in an approximately 262-foot high tubular steel tower. Evaluate the potential impact of this structure on birds? There would also be an electrical collection system between the turbines. What would this system consist of? How could they impact birds? Over how much of the area would the overhead spans be required?

Discuss and evaluate the benefits/impacts of the different possible methods (removal or burial) to remove existing facilities. How much of the existing access road would be removed and how much would remain?

What is the purpose of the meteorological towers proposed by NextEra? If NextEra is already operating turbines and proposing to replace them with new turbines, presumably they know about the wind in the area. Would the meteorological towers be in a different location?

Are there turbine designs other than the ones proposed that would provide impacted protections for birds/bats that could be used?

Mitigation measures should be effective and enforceable. The mitigation discussion should consider the following measures: closing down the turbines during high bird use times and when that would be; reducing the number of turbines; removal of higher risk turbines; using different designs (if such exist); and placing them in other less damaging locations.

Describe bird and bat surveys that are proposed to be conducted by the applicants. Evaluate their compliance with the protocols recommended in the "*California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development*." Will the data from the surveys be available to the county and all interested parties. All wildlife survey collected by the applicants should be made available to the public.

Discuss the history of compliance with the negotiated settlement agreement to the Audubon suit. What conditions will ensure compliance with permit conditions? What penalties could be put into place to better ensure compliance?

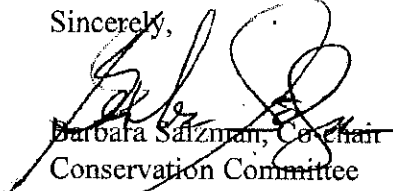
A clearly defined adaptive management program with requirements that are enforceable and effective. The proposed program should be included in the DPEIR so that its adequacy can be evaluated.

Project Alternatives should include:


- Reduced project alternative that would preferable avoid or reduce project impacts to less than significant.
- Locating turbines in a different place.

Thank you for responding to our questions.

Sincerely,



Barbara Salzman, Co-chair
Conservation Committee



Phil Peterson, Co-chair
Conservation committee

COMMENTS ON THE NOTICE OF PREPARATION FOR A PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT ON REVISED CUPs FOR WIND TURBINES IN THE ALAMEDA COUNTY PORTION OF THE ALTAMONT PASS

Michael E. Boyd President,
CALifornians for Renewable Energy, Inc. (CARE)

08 October 2010

CALifornians for Renewable Energy, Inc. (CARE) appreciates the opportunity to comment on the Notice of Preparation (NOP). Our comments follow.

We incorporate by this reference the SRC's integrated comments on the NOP, SRC document P183 v. 9-28-10 2 PM.

Introduction

The County of Alameda (County) in issuing its Notice of Preparation (NOP) of a Programmatic Environmental Impact Report (PEIR) for the Altamont Pass Wind Resource Area revised conditional use permits (CUPs)(proposed project) within the Alameda County portion of the APWRA in northern California.

The County is proposing to issue revised CUPs to wind power companies that are currently operating wind turbines in the APWRA. Purportedly the PEIR will be prepared in compliance with the California Environmental Quality Act (CEQA) and all relevant state and Federal laws. CARE respectfully disagrees. The County will serve as the lead agency under CEQA for preparation of the PEIR, but the NOP for the PEIR has failed to identify the lead federal agency to insure compliance with Federal laws protecting wildlife impacted by the existing operations from harm.

The reason given by the County is its intentional bifurcation of the environmental process so as to confound meaningful and informed participation stating “[c]oncurrent with preparation of this PEIR, the County is also preparing a Habitat Conservation Plan /Natural Community Conservation Plan (HCP/NCCP) and joint Program Environmental Impact Statement/Environmental Impact Report (PEIS/PEIR) under the National Environmental Policy Act (NEPA) and CEQA, respectively. The United States Fish and Wildlife Service (Service) will serve as the federal lead agency under NEPA. *This Notice is being issued to comply with CEQA requirements for the revised CUPs only.* An additional, but separate, scoping process is anticipated to be held in fall of 2010 by the County and the Service for the HCP/NCCP PEIS/PEIR.”

Integrated EIR/EIS process serves the public interest of participation

Some reasons why to combine NEPA/CEQA environmental review process are it combines compliance for federal, state and local laws in one document, it provides one

point of reference for public and agency reviewers, it coordinates efforts to save time and money.

CEQA encourages use of NEPA documents (with addition of certain CEQA discussions) if available prior to CEQA review (15221(a)) and CEQ NEPA regulations and CEQA Guidelines encourage integration NEPA. "To the fullest extent possible," NEPA documents should be integrated with other laws. (40 CFR §§1502.25 and 1506.2).

Mitigation measures

An EIR must identify and describe measures which could reduce or avoid each significant environmental impact of the project (14 Cal. Code Regs. §15126(b)(3)) For any significant impact, the EIR must propose and describe feasible mitigation measures that could avoid or substantially lessen the significant environmental effects of the project. (Pub. Res. C §§ 21002.1 21100; 14 Cal Code Regs. § 15126.4.)

NEPA EIS

- Must discuss mitigations for all impacts, even those not significant
- But, does not require agency to adopt mitigations in EIS
- Mitigations listed in ROD or FONSI are however enforceable and must have a monitoring program

CEQA EIR

- Must identify mitigation measures for significant impacts AND adopt feasible measures
- Requires a mitigation monitoring and reporting program (MMRP) for those measures adopted
- For EIR, findings required to reject mitigation as infeasible

We object to the fact that the NOP does not identify a continued role for the SRC going forward nor does it identify any changes to its roles and responsibilities continuing forward to be addressed either in the scope of the CUP PEIR nor has it been identified within the scope of the NCCP/HCP PEIS/PEIR.

Scope of the NEPA/CEQA Project/Action

- Scope of projects/actions
 - CEQA: Whole of action with potential for environmental impact
 - Segmentation/piecemealing prohibited
 - NEPA: can be more limited to federal control/jurisdiction, but must consider "connected actions"
 - Segmentation/piecemealing also prohibited, but federal agencies have more discretion to limit scope for proposed actions than under CEQA
 - Joint CEQA/NEPA documents often have broader scope CEQA projects and narrower scope NEPA proposed actions

Unlawful bifurcation

A “project” is a discretionary activity directly undertaken by any public agency, or an activity involving issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies (14 Cal Code Regs. §15378). The “whole of an action” includes not just specific approvals, but the underlying activity, as well as the development or activity that could result from the approval. No “piecemealing”, a single project may not be divided into smaller pieces for individual environmental reviews that don’t account for the projects overall impacts. *Association for a Cleaner Environment v. Yosemite Community College Dist* (2004) 116 Cal.App.4th 629 as modified, 10 CR3d 560 and *citizens Ass’n for Sensible Dev. of Bishop Area v County of Inyo* (1985) 172 Cal.App.3d 151.

Conclusions

The NOP of the proposed bifurcated of the CUP PEIR and NCCP/HCP PEIS/PEIR fails to comply with CEQA and NEPA in six distinct ways. First, by separating the CUP environmental review from the conservation plan the CUP PEIR will omit essential information and, as a result, will fail as an informational document. Second by bifurcating the environmental review process the CUP PEIR will unlawfully defer the formulation of various studies and mitigation measures. Third, significant unstudied changes could have to be made to the Project after the PEIS/PEIR release, and significant new information is planned to be added to the CUP PEIR at a future date, so the original CUP PEIR must be re-circulated and an additional public comment period be provided. Fifth, the discussion of Alternatives in the CUP PEIS will be inadequate insofar as the requirements for the FEIS, its No-action alternative, and requirements with the Applicant’s purpose and need could be different than those identified in the PEIS/PEIR. Sixth, the CUP PEIS will unlawfully segment the Project by failing to consider the impacts of the HCP/NCCP. CARE recommends the CUP PEIS and HCP/NCCP PEIS/PEIR be combined or the HCP/NCCP PEIS/PEIR be eliminated all together until the CUPs are brought in to compliance with their existing terms and conditions and the recommendations of the SRC.

Respectfully Submitted,



Michael E. Boyd President
CALifornians for Renewable Energy, Inc.
(CARE)
5439 Soquel Drive
Soquel, CA 95073
Phone: (408) 891-9677
E-mail: michaelboyd@sbcglobal.net



Mr. Lynne Brown Vice-President
CALifornians for Renewable Energy, Inc.
(CARE)
24 Harbor Road
San Francisco, CA 94124
E-mail: l_brown369@yahoo.com

October 8th, 2010

Verification

I am an officer of the Commenting Corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters, which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on this 8th day of October 2010, at San Francisco, California.



Lynne Brown Vice-President
CALifornians for Renewable Energy,
Inc. (CARE)

James and Martha Hodges Family Trust
3210 Main Street
Morro Bay, CA 93442

September 16, 2010

Sandra Rivera
Assistant Planning Director
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 110
Hayward CA 94544

Subject: Notice of Preparation (Notice) of a Program Environmental Impact Report (EIR) for the Altamont Pass Wind Resource Area (APWRA) revisions to Conditional Use Permits (CUPs) for repowering and continued maintenance and operation of wind turbines in Alameda County.

Dear Ms Rivera:

The James & Martha Hodges Family Trust are in receipt of the above subject notice. As co-trustees of this property, located at 7010 Vallecitos Road (Hwy 84), Sunol CA, parcel no's: 96-365-3-2 & 96-365-5, the Trust has expressed concerns regarding the direct and indirect impacts of your proposed project which includes modification to existing CPUs for repowering of existing wind farms and the associate power operation and maintenance activities within the Alameda County portion of the APWRA.

The Summit Wind Project proposes the replacement of existing, aging wind farm equipment with modern wind turbines for the purpose of delivering wind generated electrical energy to the Pacific Gas & Electric Company (PG&E). The Summit proposal also includes: Decommissioning and reclamation of existing wind farms and construction of new larger wind turbines that once ranged from 100 kW – 370 kW with an increased capacity of 1600kW; herein is our concern.

Though the Summit Wind Project is located in the Altamont Pass geography, the expanded capacity of electrical energy generated by the upgraded wind turbines will be processed in partnership with PG & E whose tower electrical systems/lines extend for miles across private land; such as ours. If new and or upgraded wind turbines are increased in capacity, we believe this will directly affect PG & E's current electrical lines thus also requiring upgrades to receive the expansion in electrical resource generated by your/subject project.

Please respond to our concerns by listing the direct and indirect impacts to our property caused by the proposals detailed per the above subject matter. Also be aware that we are adverse to any electrical increases to the existing transmission lines that cross our property, this also includes potential upgrades to existing lines and/or new installations. Such upgrades to accommodate the Summit Wind Project for the purpose of transmitting increased energy will subject our property to limited development thus hindering future sale of both parcels.

Respectfully,

Eileen L. Earhart
Co-Trustee of the James and Martha Hodges Family Trust

Cc: James R. Hodges & David L. Hodges/ Co-Trustees of the James and Martha Hodges Family Trust

COMMENTS ON THE NOTICE OF PREPARATION FOR A PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT ON REVISED CUPs FOR WIND TURBINES IN THE ALAMEDA COUNTY PORTION OF THE ALTAMONT PASS

Shawn Smallwood, Jim Estep, Sue Orloff, Joanna Burger, and Julie Yee
Alameda County Scientific Review Committee

28 September 2010

The Alameda County Scientific Review Committee (SRC) appreciates the opportunity to comment on the Notice of Preparation (NOP). Our comments follow.

CEQA REVIEW PROCESS

The SRC is concerned that the proposed environmental review process is too confusing. There are two major points of confusion: (1) The Combining of existing CUPs and the two repowering projects into a single ‘project’ for purposes of CEQA review; and (2) the combining of the review processes between the Programmatic Environmental Impact Review (PEIR) and a future EIR/EIS (Environmental Impact Statement) for a proposed Natural Communities Conservation Program/Habitat Conservation Plan (NCCP/HCP). Contributing to the first point of confusion, the analysis of existing projects is limited to operations of existing wind turbines while the analysis of the repowering projects includes the removal of existing wind turbines and the siting of entirely new wind turbines. Analyzing impacts cumulatively will potentially deemphasize the effects of the existing projects due to the benefits derived from repowering. Analyzing impacts on a project by project basis would be more appropriate, but also more appropriately lends itself to separate EIRs (repowering EIR and Existing CUP EIR). Contributing to the second point of confusion, the NOP indicates that the PEIR will be integrated into the EIR/EIS to be prepared for the NCCP/HCP, but the SRC lacks information about the mitigation measures under consideration for the NCCP/HCP.

The NOP’s announcement that the PEIR will be integrated with the EIR/EIS for the NCCP/HCP left the SRC with many concerns, including the following. It is unclear whether the permit periods would be consistent between the two planning processes, or whether the permit period following the PEIR would be later modified to match the permit period of the NCCP/HCP. It is unclear whether the list of wildlife species considered in the impact assessments of the PEIR would be the same as the list in the NCCP/HCP. It is unclear whether the thresholds of significance would be the same, especially considering the recovery standard required of NCCPs. It is also unclear to what extent the CUPs following the PEIR certification would be revised by the EIR/EIS for the NCCP/HCP. The SRC sees little sense in the County’s preparation of an EIR that will be rendered obsolete by another EIR/EIS, especially one that is directed to the same environmental impacts and involving the same limited suite of mitigation options.

The SRC recommends that Alameda County change the sequence of environmental planning and review steps announced in the NOP, so that there is no integration of environmental review documents at an unspecified, later date. Alameda County should either eliminate plans to prepare an NCCP/HCP or it should roll the plans together at the outset. The history of the

APWRA harbors a series of complicated mitigation agreements that proved ineffective at reducing avian and bat fatalities.¹ Given this history, and given the magnitude of the ongoing environmental impacts, the environmental review at hand should be simple and comprehensible.

Furthermore, the way it is worded, the NOP might give a misleading impression that another mitigation strategy prepared for the NCCP/HCP would be superior to the strategy directed toward the PEIR. The available suite of mitigation measures have been reviewed by the Alameda County Scientific Review Committee (SRC) for four years. The SRC members are experienced with fatality monitoring and research in the APWRA. The SRC does not expect another conservation strategy will be developed that will be more effective.

The SRC feels that the NOP would have been more informative had it identified the probable environmental effects and issues. The SRC feels that more description of the project would have been helpful, including the following:

- A table of the number of new turbines likely to be used in repowering projects and the number of old turbines to be removed;
- It should be clarified whether the repowering projects would occur within the same project boundaries as the existing old-generation turbines, or whether there are plans for project area expansions;
- The siting of new turbines should rely on the SRC's siting guidelines;²
- It should be clarified whether landowners have a say in whether existing roads are removed, and whether land-owner considerations fit into land use planning;
- APWRA's neighboring landowners should have adequate opportunity to raise to have their concerns and issues addressed in the review process;
- Audubon Society and Californians for Renewable Energy (CARE) should share in any oversight role(s);
- The PEIR should include a complete list of the original and amended CUPs dating back to 2005, so that there is no confusion among members of the public about the origins and relevancies of the CUPs; and,
- It should be clarified whether repowering projects not mentioned in the NOP, i.e., additional to Summit Wind and NextEra, could be developed within the permit period

¹ Smallwood, K. S. 2008. Wind power company compliance with mitigation plans in the Altamont Pass Wind Resource Area. *Environmental & Energy Law Policy Journal* 2(2):229-285.

² Alameda County SRC (Smallwood, K. S., S. Orloff, J. Estep, J. Burger, and J. Yee). 2010. Guidelines for siting wind turbines recommended for relocation to minimize potential collision-related mortality of four focal raptor species in the Altamont Pass Wind Resource Area. Alameda County SRC document P-70. [P70 SRC Hazardous Turbine Relocation Guidelines](#)

following the PEIR. If other projects are allowed, then evaluating impacts separately or site-wide for unforeseen future projects is going to be difficult. But if no other projects can be considered, then this will situation will hinder the progress of repowering.

Finally, the SRC notes that its effective comment period on the NOP was too short. By the time the SRC was able to meet on this issue, only days remained before the end of the comment period. The SRC feels that it was unable to sufficiently review the NOP and needed more time to prepare meaningful comments.

PROJECT ALTERNATIVES

The SRC is unclear how the PEIR in general and particularly the Alternatives Analysis will be presented, given that there are two vastly different elements to the ‘project,’ i.e., existing operations at old projects and repowering projects. This said, the SRC suggests the following alternatives be considered in the Programmatic Environmental Impact Report (PEIR):

- (1) No project – shutdown of all turbines and no repowering;
- (2) No change to turbine models and turbine operations;
- (3) Complete repowering to modern wind turbines with careful siting to minimize environmental impacts;
 - a. Relocated project -- removal of existing turbines, but repowering in another geographic area within or outside of the APWRA with less mortality potential;
 - b. Reduced operations (seasonal shutdowns);
- (4) Partial repowering and partial continued operations of old turbines, where for the old turbines the following additional alternatives should be considered:
 - a. Partial decommissioning of turbines;
 - b. Seasonal shutdown;
 - c. Removal of all turbines rated 7 or higher by the SRC;
 - d. Removal of unproductive turbines and vacant towers;
- (5) Reduced project -- fewer removals of old turbines and fewer new turbines, or removal of all existing turbines within the repowered area, but fewer new turbines.

The SRC is concerned that there may not be a reasonable way to combine these elements in order to conduct an alternatives analysis for the entire project (existing and repowering elements).

IMPACTS ANALYSIS

Turbine configurations and conditions will change with repowering, attrition, and removals. The SRC is concerned about how the impacts will be assessed with these ongoing changes, which will continue to alter the impact levels. It's like evaluating a moving target. Reassessments of potentially hazardous turbines and conditions would need to be made regularly and then mitigation measures adjusted accordingly, one set for old-generation turbines and another set for repowered turbines.

It appears that the PEIR will address the impacts of current operations relative to the existing CUPs. Then, once the HCP/NCCP is completed, the county will amend as necessary the existing CUPs to include conservation, avoidance, and minimization measures. The description appears to imply that the HCP/NCCP avoidance and minimization measures will be the primary method of mitigating impacts for existing projects. This situation raises two concerns with the SRC:

- a) Whether the PEIR would be able to reach significance conclusions pursuant to CEQA prior to the completion of the HCP/NCCP; and,
- b) Whether the county is assuming that the HCP/NCCP avoidance and minimization measures will reduce impacts to levels of less-than-significant.

The PEIR should evaluate and calculate impacts related to avian mortality using the information generated from the monitoring program and available on the SRC website. Based on these data, the PEIR should then determine the significance of the impacts pursuant to CEQA guidance. The PEIR should define significance thresholds for each affected species or species group, both on a local and regional level. The analysis should investigate the number of birds or bats of each potentially affected species or species group that can be removed from a population before reaching biological significance pursuant to CEQA guidance. If impacts are determined to be significant, mitigation measures can then be applied to minimize the impact, which should include turbine removal, in an effort to reach a level of less than significant. The alternative is for the County to issue overriding considerations.

The SRC is further concerned over how the PEIR will address golden eagle mortality relative to its status as a Fully Protected (i.e., no take) species in California. Golden eagle mortality will occur and cannot be fully eliminated under the proposed project descriptions, and as a Fully Protected species, there is no provision for take under state law.

The SRC recommends that avian and bat mortality be analyzed both on an APWRA-wide basis and on a project by project basis. This approach would prevent individual companies who are not repowering from not doing their share to reduce fatalities caused by their projects. The impact assessment should address avian and bat mortality for each project component individually; that is, (1) existing CUPs, (2) Summit Repowering, and (3) NextEra Repowering.

MITIGATION ALTERNATIVES

Repowering

Repowered turbines need to be carefully sited to minimize collision hazards to birds and bats, and to minimize grading impacts caused by construction of access roads and turbine laydown areas. Siting should be guided by (1) patterns of fatality rates among APWRA wind turbines, (2) flight patterns of species of greatest concern (e.g., golden eagle, red-tailed hawk, American kestrel, burrowing owl), and (3) the spatial distribution of burrowing owl burrows. Siting methods were recently developed,³ and they were advanced further, specifically for Contra Costa County repowering projects.⁴

Post-construction fatality and utilization monitoring lasting three years should be required. The effects of repowering on fatality rates and habitat displacement (avoidance effects) need to be quantified to inform future permit renewals and mitigation planning.

Additional studies may need to be conducted to assess the impacts to bats – such as studies on seasonal and spatial distributions, and migratory and other movement patterns.

It would be important to consider the difficulty in evaluating, avoiding, and mitigating for impacts to the state and federally listed California tiger salamander. These animals occur throughout the APWRA and can be found not only in ground squirrel burrows, but also pocket gopher burrows, crevices, or under rocks. Detecting presence when they are underground is difficult and time consuming. California red-legged frogs similarly aestivate in mammal burrows away from water, and these are difficult to detect in surveys. A section 7 consultation with USFWS would be needed before any decommissioning takes place.

Continued operation of old turbines

The SRC recommended removal of turbines they ranked 7 to 10 on a collision hazard scale. They also recommended the continuation of a four-month winter shutdown. Over the past four years, the SRC made many other recommendations, most of which were not followed in a timely

³ Smallwood, K. S., and L. Neher. 2009. Map-Based Repowering of the Altamont Pass Wind Resource Area Based on Burrowing Owl Burrows, Raptor Flights, and Collisions with Wind Turbines. Final Report to the California Energy Commission, Public Interest Energy Research – Environmental Area, Contract No. CEC-500-2009-065. Sacramento, California. 63 pp. <http://www.energy.ca.gov/2009publications/CEC-500-2009-065/CEC-500-2009-065.PDF>

Smallwood, K. S., L. Neher, and D. A. Bell. 2009. Map-based repowering and reorganization of a wind resource area to minimize burrowing owl and other bird fatalities. *Energies* 2009(2):915-943. <http://www.mdpi.com/1996-1073/2/4/915>

⁴ Smallwood, K. S. and L. Neher. 2010. Siting Repowered Wind Turbines to Minimize Raptor Collisions at the Tres Vaqueros Wind Project, Contra Costa County, California. Draft Report to the East Bay Regional Park District, Oakland, California.

fashion or not followed at all.⁵ For example, the SRC repeatedly recommended that the CUP requirements be met, as fatality reductions could not be realized without mitigation actions being taken. The SRC also recommended that all unproductive turbines and vacant towers be removed. The wind companies should better inform the SRC of their actions, including which turbines were removed or relocated, and when the actions happened. The SRC recommended compliance monitoring by a trusted third party or by the SRC. The SRC requested power output data from the companies so that hypotheses related to patterns of collisions, leading to improved removal and relocation recommendations could be tested. The SRC recommended a focused burrowing owl behavior study in order to learn why burrowing owls are being killed at such high rates near wind turbines. The SRC also recommended a background mortality study, searcher detection trials, more aggressive behavior monitoring of flying birds, and timely processing of bird utilization monitoring. If the continued operations of old-generation turbines are to be considered in one or more PEIR alternatives, then the SRC's recommendations should be fully implemented.

All old-generation turbines that are allowed to continue operating should be monitored for fatalities until the turbines are removed.

Compensatory mitigation

No matter which model of horizontal-axis wind turbines operate in the APWRA, birds and bats will continue to be killed by moving turbine blades. Even reducing raptor mortality 80-85% due to repowering, the remaining fatality rates should be considered significant. There is no fatality-reducing or fatality-minimizing mitigation measure that will reduce the impacts below a threshold of significance under CEQA. Therefore, compensatory mitigation will be necessary.

Compensatory mitigation should be based on a nexus between a project's adverse impacts and the benefits gained through the mitigation. Although some consideration should be devoted to finding this nexus, in reality it will be very difficult to arrive at such a nexus due to the nature and magnitudes of the impacts. The impacts will continue for the life of the project(s), and they will affect some species that lack distinct taxonomic units or "populations" within the APWRA. Most of the species affected are migratory, using the APWRA briefly or for only part of the year. It may be impossible to rely on habitat restoration or habitat protections as a means to replace the annual numbers of birds and bats killed by wind turbines in the APWRA. Therefore, a simpler, arbitrary compensatory mitigation ratio may be needed. Furthermore, a compensatory mitigation ratio may still fail to lessen impacts to *less than significant* for the simple reason that many of the birds being killed in large numbers cannot be taken under the Migratory Bird Treaty Act.

Setting aside non-development zones within the Altamont would also be an option for compensatory mitigation. Using existing bird use data to design possible movement corridors through the Altamont would be useful.

⁵ Smallwood, S. 2010. Summary of Alameda County SRC Recommendations and Concerns and Subsequent Actions. http://www.altamontsrc.org/alt_doc/p147_smallwood_summary_of_src_recommendations_and_concerns_1_11_10.pdf

Decommissioning and reclamation of existing wind farms

The NOP states that as repowering proceeds, power poles and electrical overhead lines will be removed where they are no longer needed. The SRC recommends that all the power poles and overhead lines are removed; they should be replaced by undergrounded lines. The power poles and overhead lines kill numerous birds, although estimates of annual fatality rates caused by electrocution and line strikes have yet to be made.

If overhead lines and power poles must be used, then the SRC recommends they be limited to locations where they will not pose a substantial hazard to raptors. The SRC has noticed trends in American kestrel fatalities at wind turbines corresponding with nearness to power poles. The SRC believes American kestrels routinely perch on power poles, and that adjacency of power poles to wind turbines on steep slopes, in ridge saddles, and in notches or breaks in slope has been associated with disproportionate numbers of American kestrel fatalities. The SRC recommends maintaining as much distance as possible between power poles and intervening line spans from wind turbines, and especially from wind turbines in hazardous settings. The SRC also notes that its hazard ratings of wind turbines documented where many dangerous settings occur in the APWRA, but not all dangerous settings were documented.

The NOP and the PEIR should define what is meant by the phrase ‘no longer operable.’ It seems like the county might consider requiring some specific level of turbine operation per turbine and per project. Can 90 percent of the turbines remain non-functioning as long as 10% are operating? The SRC suggests that perhaps decommissioning should occur on a turbine basis rather than waiting for the ‘project’ to become non-operable.

The NOP made no mention of monitoring the reclamation efforts to verify that restoration has been successful. This will ensure that cables are sufficiently buried, vegetation has been established, and erosion has been controlled. Monitoring would also provide information on other needed restorations and identify any remedial actions.

Biological surveys would also need to be conducted before any reclamation activities, so that the work can be tailored to the specific needs of the site. For example, re-contouring the land or removing foundations could impact sensitive species that occupy underground burrows such as California tiger salamander or burrowing owls.

MITIGATION MONITORING

The PEIR should detail a credible mitigation monitoring plan as required under CEQA. The monitoring conducted so far – termed compliance monitoring as part of the Alameda County Avian Wildlife Protection Program – has been grossly inadequate.⁶ Actions allegedly taken by the wind companies were often in dispute, and the timing and magnitude of the actions were always vague and confusing. A trusted third party is needed to perform this monitoring.

⁶ Smallwood, S. 2010. Progress of Avian Wildlife Protection Program & Schedule. http://www.altamontsrc.org/alt_doc/p148_smallwood_progress_of_avian_wildlife_protection_program_1_11_10.pdf



October 8, 2010

Sent via electronic mail on October 8, 2010 to APWRACUPEIR@acgov.org

Sandra Rivera
Assistant Planning Director
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224 W. Winton Avenue, Suite 110
Hayward, CA, 94544

Thank you for the opportunity to comment on the Notice of Preparation of a Program Environmental Impact Report for the Altamont Pass Wind Resource Area (APWRA) revisions to Conditional Use Permits (CUPs) for repowering and continued maintenance and operation of wind turbines in Alameda County. The Center for Biological Diversity is a national non-profit conservation organization dedicated to the protection of endangered species and wild places.

Background

The Center has been involved since 2003 in efforts to reduce avian mortality at the APWRA; we have filed previous appeals on CUPs for APWRA, filed a lawsuit against energy companies for violations of state and federal wildlife laws, and participated in the County's review and revision of permit conditions from 2004 to 2007. The Center was not a party to the ill-advised settlement agreement in 2007 that revised and relaxed CUP permit conditions.

As a conservation organization involved with efforts to reduce greenhouse gas emissions, we believe that using alternative energy sources like clean wind energy is essential to reducing our impact on the environment. However, it is undisputed that the poorly sited wind turbines at APWRA continue to kill thousands of birds each year, including more than a thousand birds of prey from 40 different species, through collisions with turbines and electrocution on power lines. Located on a major bird migratory route in an area with large concentrations of raptors — including the highest density of breeding golden eagles in the world — APWRA is the most lethal wind farm in North America for birds of prey, causing massive ongoing kills of hawks, burrowing owls, falcons, golden eagles, and other raptor species. The original permits for the thousands of wind turbines at APWRA were issued without conducting an environmental impact report, contrary to requirements under the California Environmental Quality Act (CEQA). Some Altamont energy companies continue to use antiquated turbines that are poorly placed, inefficient, and a high risk to birds. According to wind-industry reports, the controversy over bird kills at Altamont Pass has hampered wind power development in other area as unresolved concerns about impacts to birds cause other wind facilities' construction to be delayed or operations to be discontinued. The ongoing bird kills at APWRA are in violation of California

and federal wildlife laws, including criminal provisions of those laws. These violations include California Fish and Game Code sections 2000, 3503.5, 3511, 3513, 3800, 12000, California Code of Regulations sections 472, 509; title 16 United States Code section 668 (the Bald Eagle and Golden Eagle Protection Act); title 16 United States Code section 703 (the Migratory Bird Treaty Act); and title 50 Code of Federal Regulations sections 10.13, 21.11, 22.11.

Wind energy can be produced without decimating wildlife populations, by reviewing siting of wind farms for bird abundance, migration, and use patterns, and designing and operating wind farms to prevent or minimize bird mortality. Existing wind facilities with adverse impacts on birds, such as the APWRA, should be required to reduce bird kills as much as possible, and mitigate fully by providing adequate compensation for any continuing impacts.

Recommendations made by the California Energy Commission to replace obsolete turbines with fewer, more efficient turbines, implement mitigation measures to reduce bird kills at existing turbines, and preserve off-site nesting habitat for raptors to compensate for ongoing unacceptable bird losses should be adopted at APWRA.

Failure to Implement Permit Conditions and Mitigation Measures

In January 2007 Alameda County reached a settlement agreement with Audubon regarding reduction of bird kills at APWRA that resulted in new permit conditions and mitigation measures. This controversial agreement scuttled existing permit conditions adopted by the Alameda County Board of Supervisors in September 2005 that conservation groups had worked three years to negotiate and implement. The key promise of the 2007 settlement agreement was a 50% reduction in kills of four focal raptor species within three years. Continued energy company violations of the settlement agreement and permit conditions have been documented since 2007, and Alameda County has attempted to subvert bird fatality reduction measures (Smallwood 2008). Mitigation recommendations made so the County's Scientific Review Committee have been grossly inadequate or have been ignored by the Altamont energy companies. Some simple mitigation recommendations made by the SRC have not been implemented, such as removing derelict towers, moving rock piles to manage rodent prey away from turbines, and removing the most lethal turbines. As the energy companies continue to miss deadlines for required mitigation measures, Alameda County simply revises the deadlines. Credible compliance monitoring with promised mitigation measures is non-existent because the County simply relies on industry reports of compliance. The energy companies have repeatedly refused to give requested data to the SRC.

Energy companies without approved repowering plans or verified compliance with SRC recommended mitigation measures should not be issued CUP permits.

Increased Raptor Mortality

The energy companies have not achieved the promised 50% reduction in raptor mortality over the three-year monitoring period. In fact, while Alameda County refuses to enforce permit conditions and promised mitigations, and energy companies refuse to implement them, raptor

mortality at APWRA appears to have increased significantly recently. Bird fatality rates at APWRA appear to have increased 85% for all raptors and 51% for all birds between the periods 1998–2003 and 2005–2007 (Smallwood and Karas 2009). A monitoring report by a consultant for the energy companies (WEST et al. 2007) documented more dead raptors collected at Altamont Pass over 1.5 years than were found by California Energy Commission researchers over 4.5 years from 1998-2003 (Smallwood and Thelander 2004), when annual raptor mortality was estimated at an alarming 881 to 1,300 birds of prey. Recent reports (e.g. Smallwood et al. 2006, 2007) that wind turbines at Altamont Pass likely kill over 100 burrowing owls annually, a significant number of the burrowing owls nesting at Altamont, making the wind farm a population sink for this imperiled species.

Scope of EIR and Proposed NCCP/HCP

The NOP states that: “Concurrent with preparation of this PEIR, the County is also preparing a Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) and joint Program Environmental Impact Statement/Environmental Impact Report (PEIS/PEIR) under the National Environmental Policy Act (NEPA) and CEQA, respectively. The United States Fish and Wildlife Service (Service) will serve as the federal lead agency under NEPA. This Notice is being issued to comply with CEQA requirements for the revised CUPs only. An additional, but separate, scoping process is anticipated to be held in fall of 2010 by the County and the Service for the HCP/NCCP PEIS/PEIR.”

The PEIR is for issuance of revised CUPs for the continued operation and repowering of wind turbines at APWRA. The NOP states that another CEQA and NEPA review will occur for a planned NCCP/HCP, which apparently would revise the CUPs again, making the current EIR/EIS obsolete. How can the EIR reach significance conclusions pursuant to CEQA prior to completion of the HCP/NCCP? Is the current EIR/EIS assuming that the HCP/NCCP avoidance and minimization measures will reduce impacts to a level of less than significant? The description appears to imply that the HCP/NCCP avoidance and minimization measures will be the primary method of mitigating impacts for existing projects. Given the history of ineffective mitigation agreements in the APWRA and Alameda County’s failure to enforce them or relaxing permit conditions based on false claims of compliance with CUPs (Smallwood 2008), the failure to achieve any reduction of avian fatality rates at APWRA over two decades of agreements and mitigation plans, the disturbing magnitude of the ongoing environmental impacts, and the limited suite of mitigation options the County is willing to consider, no further consideration should be given to another EIR/EIS for a NCCP/HCP.

The NOP gives the misleading impression that a mitigation strategy prepared for the NCCP/HCP would be superior to the strategy in the PEIR. The available suite of mitigation measures have been reviewed by the SRC for four years. Three of the five SRC members have been involved with fatality monitoring and research in the APWRA for periods spanning 11 to 21 years. It is highly unlikely that the committee convened to guide the NCCP/HCP -- composed mostly of individuals with little if any experience in the APWRA -- will develop a mitigation strategy that is more effective than a strategy developed by the SRC.

It is unclear whether the current EIR/EIS will analyze biological effects cumulatively or on a project by project basis. Analyzing impacts cumulatively will potentially deemphasize the effects of the existing projects due to potential benefits derived from repowering. Furthermore, combining the existing CUPs and the two repowering projects into a single 'project' for purposes of CEQA is inappropriate. There should be separate EIRs for existing CUPs and repowering, with the EIR for existing CUPs analyzing operations of existing windfarms, and the repowering EIR analyzing removal of existing windfarms and siting and impacts of new windfarms.

Project Alternatives

The EIR/EIS should also include evaluation of alternatives that a) require complete repowering of APWRA to modern wind turbines with careful siting to minimize environmental impacts; and b) close the APWRA and remove all wind turbines.

Repowering

Repowered turbines should be sited according to guidelines and criteria to minimize collision hazards to birds and bats, and to minimize grading impacts by construction of access roads and turbine laydown areas. Siting should be guided by patterns of fatality rates among APWRA wind turbines, flight patterns of species of greatest concern (golden eagle, red-tailed hawk, American kestrel, burrowing owl), and the spatial distribution of burrowing owl burrows. Siting methods have been developed by Smallwood and Neher (2009), Smallwood et al. (2009), and Smallwood and Neher (2010). Post-construction fatality and utilization monitoring should be required for at least five years, so that the effects of repowering on fatality rates and habitat displacement (avoidance effects) can be quantified to inform future permit renewals and mitigation planning.

Continued Operation of Old Turbines

The SRC has recommended removal of turbines ranked 7 to 10 on a collision hazard scale and continuation of a four-month winter shutdown. Many of the SRC recommendations over the past four years have not been met according to deadlines or not followed at all (SRC document P-147). For example, the SRC repeatedly recommended that the CUP requirements be met, as fatality reductions could not be realized without mitigation actions being taken. The SRC also recommended that all unproductive turbines and vacant towers be removed. The wind companies should better inform the SRC of their actions, including which turbines were removed or relocated, and when the actions happened. The SRC recommended compliance monitoring by a trusted third party or by the SRC. The SRC requested power output data from the companies so that the SRC could test hypotheses related to patterns of collisions, leading to improved removal and relocation recommendations. The SRC recommended a focused burrowing owl behavior study in order to learn why burrowing owls are being killed at such high rates near wind turbines. The SRC also recommended a background mortality study, searcher detection trials, more aggressive behavior monitoring of flying birds, and timely processing of bird utilization monitoring. If the continued operations of old-generation turbines are to be considered in one or more PEIR alternatives, then the SRC's recommendations should be fully implemented. All old-

generation turbines that are allowed to continue operating should be monitored for fatalities until the turbines are removed.

Compensatory Mitigation

As long as horizontal-axis wind turbines operate in the APWRA, birds and bats will continue to be killed by moving turbine blades. Even if potential reduction in raptor mortality due to repowering can reach 80-85%, the remaining fatality rates will be significant. Because there is no fatality-reducing or fatality-minimizing mitigation measure that will reduce the impacts below a threshold of significance under CEQA, and impacts will continue for the life of the project, compensatory mitigation will be necessary. Compensatory mitigation payment should be required from all permittees on a per megawatt basis – this funding should go toward purchase of productive raptor habitat in the Altamont region in the form of land or conservation easements to compensate for avian mortality during permit operations.

Decommissioning and Reclamation of Existing Wind Farms

The NOP states that as repowering proceeds, power poles and electrical overhead lines will be removed, but only where they are “no longer needed.” The power poles and overhead lines kill numerous birds, although estimates of annual fatality rates caused by electrocution and line strikes have yet to be made. All power poles and overhead lines at APWRA should be removed and replaced by undergrounded lines.

Mitigation Monitoring

The EIR must include and describe in detail a credible mitigation monitoring plan. Mitigation monitoring conducted so far has been grossly inadequate (see SRC document P-148) and actions allegedly taken by energy companies are often in dispute. An effective and scientifically credible avian mortality monitoring program that is independent of the permittees is needed. Given the history of noncompliance with APWRA permit conditions, any mitigation plan for wind turbine-caused fatalities must include a performance bond to be credible.

Sincerely,

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Citations

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DEPARTMENT OF FISH AND GAME

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October 6, 2010

Ms. Sandra Rivera
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Dear Ms. Rivera:

Subject: Altamont Pass Wind Resource Area Conditional Use Permits, Programmatic Environmental Impact Report, SCH #2010082063, Alameda County

The Department of Fish and Game (Department) appreciates the opportunity to comment on the Notice of Preparation (NOP) of a Programmatic Environmental Impact Report (PEIR) for the Altamont Pass Wind Resource Area (APWRA) revisions to Conditional Use Permits (CUPs). Although the current CUPs will expire in 2018, preparation of the PEIR is obligated by the 2007 Settlement Agreement (Settlement Agreement) between Audubon, the wind companies, and the County of Alameda. The proposed project is intended to modify the existing CUPs to include conservation actions that are to be developed as part of the APWRA Habitat Conservation Plan/Natural Community Conservation Plan (APWRA Plan). Development of the APWRA Plan, or a similar agreement, is also obligated by the 2007 Settlement Agreement. However, if the APWRA Plan or a similar agreement is not agreed to, the PEIR may be used to modify the CUPs to be consistent with the Settlement Agreement.

In addition to the modifications of the existing CUPs, Altamont Winds LLC and NextEra Energy Resources LLC have proposed wind turbine repower projects to be included as part of the PEIR. Altamont Winds LLC has proposed the Summit Wind Project, consisting of approximately sixty 1.6-mega watt (MW) wind turbines on 7,650 acres, in the APWRA south of Interstate 580. Next Era Energy Resources LLC has proposed the NextEra Project, consisting of approximately fifty-nine 2.3 MW wind turbines on 8,900 acres, in the APWRA north and south of Interstate 580. These two projects combined would have an estimated installed capacity of 230.7 MW.

The PEIR NOP states that it is the intent of the County of Alameda to modify its CUPs consistent with the conservation strategy that is being developed as part of the APWRA Plan. The two repower projects included as part of the PEIR have a combined installed capacity that is nearly half of the 416 MW cap currently in place in the Alameda County portion of the APRWA. Under the draft Planning Agreement for the APRWRA Plan, these two projects are to be treated as interim projects.

The Department is concerned that consideration of two significant repower projects in the early stages of the APWRA Plan development may exclude viable conservation strategies and opportunities, and as a result dictate the types of conservation strategies available to the APWRA Plan. The conservation strategies developed during the APWRA Plan process are designed to guide those aspects of project design that may, or are known to, impact biological resources. Consistent with Fish and Game Code Section 2800 et seq, known as the Natural Community Conservation Planning Act, the Department may provide recommended mitigation measures or project alternatives as part of the interim project process that would help achieve the preliminary conservation objectives. In addition to considering recommendations made during the interim project process, the Department suggests the PEIR describe how these two projects will remain responsive to viable conservation strategies and not preclude or limit their development.

Ongoing or recurring biological impacts associated with the operation of current and proposed wind turbine generators (WTGs) should be analyzed. The analysis needs to include both bat and avian species that may be affected. Current methodologies base impacts and mitigation on four focal raptor species, the Golden eagle, Red-tailed hawk, American kestrel, and Burrowing owl. While these species have been used for assessing impacts on older generation WTGs, changes in design of newer WTGs may result in effects on a different suite of species. It is important that impacts to all avian and bat species be evaluated when analyzing impacts. Additionally, impacts to biological resources associated with construction of new WTGs and the remediation of old WTGs should be analyzed.

Careful siting of turbines appears to be one of the most effective ways to reduce impacts to biological resources. Based upon consultation with the Altamont Scientific Review Committee, the Department, the U.S. Fish and Wildlife Service, and the best available scientific information, the PEIR should describe high risk placements of WTGs and prohibit them.

While careful siting of turbines can help minimize anticipated levels of mortality, unknown factors may result in particular turbines being especially high risk to avian and bat species. An adaptive management and monitoring plan should be developed to assess both high risk turbines and additional methods of minimizing bird and bats mortalities. To be effective, the adaptive management and monitoring plan must have actionable items that can reasonably be expected to result in a change in mortality. The determination of thresholds to trigger management actions should not be limited to the four focal raptor species or be based solely on averages among species, as this can obscure potentially significant effects at the species level.

On January 11, 2007 the Board of Supervisors of the County of Alameda adopted Resolution R-2007-111, amending 29 CUPs and approving two additional CUPs, so as to be consistent with the terms of the Settlement Agreement. The Department would like to call attention to, and comment upon, the items identified in Condition 8 of Resolution R-2007-111, as this condition identifies content to be contained in the PEIR. In italics below are excerpts from Condition 8, followed by the Department's comment:

- *The [P]EIR will assess the environmental impacts of the repowering program (including both specific proposals and the overall repowering program set forth herein), the continued operation of existing turbine facilities, and the effectiveness of the various strategies to reduce and minimize avian mortality and other adverse impacts on wildlife (such as new turbine technology, site-specific measures, grazing management, etc.).*

When assessing the environmental impacts, the Department recommends avoidance as the primary method of reducing impacts to biological resources. When this is no longer possible, a project should then explore the most effective methods to minimize impacts. Once avoidance and minimization measures have been exhausted the remaining impacts should be sufficiently mitigated. Additionally, mitigation for significant impacts identified in the PEIR should be mitigated consistent with the draft East Alameda County Conservation Strategy that was developed by local agencies, including Alameda County, and is supported by the Department.

- *The [P]EIR will seek to verify and validate current assumptions regarding the benefit of repowering as a means of substantially and significantly reducing the amount of avian injury and mortality resulting from most existing types of turbines, and identify appropriate means of ensuring that repowered turbines have the lowest possible rate of avian mortality.*

The assumption regarding new technology WTGs one MW and above is that larger turbines will result in fewer mortalities. This assumption needs to be validated with peer reviewed scientific research conducted on WTGs that are similar in rotor diameter and height in order to assess future impacts from repowering.

- *The [P]EIR shall also study siting in the Altamont as a whole, and may also address how to provide incentives for an increased rate of repowering, including expanding areas where wind power facilities may be permitted.*

Incentives for an increase rate of repowering should only be developed if it is shown that new generation WTGs reduce avian and bat fatality and mitigation measures can substantially reduce or compensate for mortalities. A proposed expansion of areas permitted for WTGs should not be contemplated until the ability to mitigate impacts from ongoing and proposed repower projects is assessed and realized. This assessment is beyond the scope of the PEIR and, as such, any expansion of WTGs should not be included.

The Department, as the Trustee Agency for fish and wildlife pursuant to the California Environmental Quality Act Section 15386, is responsible for the conservation, protection, and management of the State's biological resources. The Department acts as a Responsible Agency when a subsequent permit or other type of discretionary approval is required from the Department, such as an Incidental Take Permit (ITP), pursuant to the California Endangered Species Act, or a Lake and Streambed Alteration Agreement

Ms. Sandra Rivera
October 6, 2010
Page 4

(LSAA), issued under Fish and Game Code Section 1600 et seq. Based on the information we have been provided to date, activities identified in the PEIR NOP will likely require an ITP and LSAA.

The Department supports the development of renewable energy resources for projects which are in compliance with existing state and federal laws; include measures that when implemented effectively avoid and minimize impacts to native species and their habitats; include sufficient mitigation for unavoidable impacts; and provide for the conservation of biological resources. As both a Responsible Agency and Trustee Agency, the Department requests the opportunity to cooperate in the preparation of the PEIR in order to continue our close coordination with activities undertaken as part of the APWRA Plan.

If you have any questions, please contact Mr. Craig Weightman, Staff Environmental Scientist, at (707) 944-5577 or cweightman@dfg.ca.gov; or Mr. Scott Wilson, Environmental Program Manager, at (707) 944-5584.

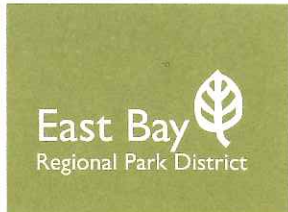
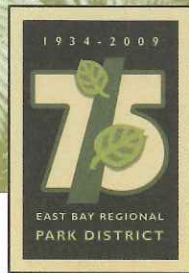
Sincerely,



Charles Armor
Regional Manager
Bay Delta Region

cc: State Clearinghouse

Mr. Mike Thomas
U.S. Fish and Wildlife Service
2800 Cottage Way, W-2605
Sacramento, CA 95825



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October 4, 2010

Sandra Rivera
 Assistant Planning Director
 Alameda County Community Development Agency
 224 West Winton Avenue, Suite 110
 Hayward, CA 94544

Subject: Scoping Comments for the Altamont Pass Wind Resource Area CUP Program EIR

Dear Ms. Rivera,

The East Bay Regional Park District ("District") is responding to the Notice of Preparation (NOP) for the Altamont Pass Wind Resource Area (APWRA) Conditional Use Permit (CUP) Program Environmental Impact Report (PEIR). The District owns or manages nearly 110,000 acres of open space in Alameda and Contra Costa Counties. This includes more than 3,000 acres of parklands in Contra Costa County that have wind turbine leases. Within Alameda County, wind turbines abut the northern and eastern boundaries of Brushy Regional Preserve.

The NOP describes two proposed projects; however, the enclosed figure does not show the location of the two projects. The first project, called Summit Wind Project, is located within a 7,650-acre area south of Interstate 580. This project area may include portions of the proposed Tesla Regional Preserve as shown on the District's 2008 Master Plan Map. The second project, called the NextEra Wind Repowering Project, is located in an 8,950-acre area that abuts the 1,833-acre Brushy Peak Regional Preserve.

The District's comments focus on the potential effects of these two projects on our existing and proposed regional parks and trails in the APWRA. These include potential effects to biological and cultural resources, water quality, visual environment, public access, and emergency and maintenance access. Please see our attached detailed scoping comments.

Please call me at (510) 544-2622 should you have any questions regarding our letter.

Sincerely,

Brad Olson
 Environmental Programs Manager

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**East Bay Regional Park District
Scoping Comments**

**Altamont Pass Wind Resource Area
Conditional Use Permit
Program Environmental Impact Report
October 4, 2010**

1. Project Background Information

The proposed project is located adjacent to Brushy Peak Regional Preserve in north eastern Alameda Costa County. The 1,833-acre Preserve has substantial natural, cultural and scenic resources of regional significance. Wind turbines abut the northern and eastern boundaries of the Preserve.

Some of the existing turbines have been in operation for more than twenty years. When these initial facilities were installed, little was known about the potential effects of these facilities on wildlife, plants, special-status species, water quality, esthetics and recreation. Since that time there have been a number of significant changes in project circumstances that must be addressed in the PEIR. One area of particular significance is project impacts to raptors, such as golden eagles, and to special-status species. In the past fifteen years, the Alameda whipsnake, California red-legged frog, California tiger salamander and fairy shrimp species have been listed as threatened or endangered under the California and/or federal endangered species acts.

Golden eagles, Prairie falcon, Western burrowing owl, red-legged frog, tiger salamander, vernal pool fairy shrimp, longhorn fairy shrimp and San Joaquin spear scale are present at the Preserve. The endangered San Joaquin kit fox was observed at the Preserve in 2004. The Preserve is very rich in special-status species that may be affected by the proposed project. The District has been conducting restoration projects, habitat management improvements and wildlife monitoring at the Preserve for several years. This includes rehabilitation of ponds, construction of wetlands, non-native species control and range management improvements.

2. Existing Biological Resource Impacts

Wind turbine operations in the APWRA cause on-going avian and bat fatalities (Smallwood 2010 SRC-PI45, Smallwood 2007, Smallwood and Thelander 2008, Smallwood and Karas 2009). Depending on species and study, fatality estimates vary. A mitigation plan adopted on Sept. 22, 2005 by the Alameda County Board of Supervisors and amended according to a Settlement Agreement between the County of Alameda, Audubon and wind companies identified four focal species of raptors for measuring fatality rates to gauge the success of mitigation measures, particularly a targeted 50% reduction in focal species fatality. The 50% reduction in fatalities has not been achieved.

One study estimated for the period 2005-2009 that the APWRA killed per year on average 55 golden eagles, 253.4 red-tailed hawks, 475.4 American kestrels and 713.9 burrowing owls (Smallwood 2010 SRC-PI45). The same study estimated yearly fatality rates of 1,644.6 for all

raptors, 7,643.1 for all birds, and 83.9 for all bats. These fatality estimates are similar to those produced in other studies for earlier time periods (Smallwood and Karas 2009). Recent work that takes into account improved estimates of scavenger bias in fatality monitoring studies suggest that existing fatality rates in the APWRA may be even higher, e.g. 3 times higher for red-tailed hawks, 68% higher for all raptors combined, and 67% higher for all birds combined (Smallwood et al. 2010). The most recent estimate for annual numbers of golden eagles killed in the APWRA is 94.0 (80% CI: 66.5 – 121.5) per year (Smallwood 2010 SRC-PI45). The fatality rate for golden eagles remains high enough to conclude that the existing conditions of the APWRA represent a population sink for the local breeding population of golden eagles (Hunt 2002, Hunt and Hunt 2006). The same may hold for burrowing owls (Smallwood et al. 2007), prairie falcons (Bell, unpublished data) and other species.

Given that it is unlikely the Altamont will be repowered rapidly and uniformly across all wind farms in the Altamont, we can expect continued high raptor, bat and other bird fatality rates for the foreseeable future. It is important that the mitigation measures recommended by the Altamont Scientific Review Committee (SRC) to reduce mortality rates in the existing infrastructure of the APWRA be implemented rapidly and completely. Unfortunately implementation of mitigation measures required by the existing CUPs and the Settlement Agreement has been slow, piece-meal and in some cases non-existent (Smallwood 2008, Smallwood 2010 SRC-PI47, Smallwood 2010 SRC-PI48). Revised CUPs for continued maintenance and operation of existing wind turbines need to include the existing fatality monitoring and mitigation requirements in order to reduce avian and bat fatality rates. For example, two of the most effective mitigation measures put forth by the SRC to reduce raptor mortality in the existing wind farms are the winter shutdown period and the relocation of hazardous turbines to less dangerous areas. These measures should remain in place for the operational life of the old generation wind turbines until they are removed.

Assurances for mitigation compliance and enforcement, along with consistent reporting and fatality monitoring, need to be codified in the revised CUPs. The best format to achieve this would be to maintain the current SRC as a condition of the revised CUPs so that the recommendations of the SRC are followed during mitigation implementation.

To best gauge the effectiveness of mitigation measures both for the existing conditions as well as for the repowering of the APWRA, the CUPs should be revised to reflect the Attorney General's concerns in a letter dated March 1, 2007, to the Alameda County Planning Director regarding the use of incorrect baseline bird mortality figures and correction factors in both the settlement agreement and the amended CUPs. The revised CUPs should provide new baseline avian fatality rate estimates, as well as the stipulation that the estimates may be changed through time to reflect the best available science. This will provide the most up to date and accurate baseline data for comparison of impacts with a repowered Altamont. This in turn will facilitate adaptive management of the APWRA to lower avian and bat fatality rates.

3. Project-Related Biological Resource Impacts

In March of 2009 the California Energy Commission (CEC) released a Public Interest Energy Research Final Project Report entitled "Range Management Practices to Reduce Wind Turbine

Impacts on Burrowing Owls and Other Raptors in the Altamont Pass Wind Resource Area, California.” The report is available on the CEC website. It contains substantial information about the effects of wind turbines on raptors in the Altamont Pass Wind Resource Area (APWRA). This information should be considered in the PEIR.

Contra Costa County Public Works Department has been conducting monitoring of wildlife impacts along a portion of Vasco Road, just east of Vasco Caves Regional Preserve. A March 30, 2009, report entitled “Vasco Road Wildlife Movement Study Report” documents a substantial mortality of wildlife along just a 2.5 mile stretch of Vasco Road adjacent to the Preserve. Approximately 1,339 individuals, including 50 California tiger salamander and 120 red-legged frogs, were killed on Vasco Road in a fifteen month period. This report should be considered when evaluating the construction of roads for the project and in evaluating the cumulative effects of roads to wildlife in the region. Several additional reference documents are identified at the end of these comments. These documents should be considered in preparing the PEIR.

Operation of the APWRA represents a population sink for the local breeding population of golden eagles (Hunt 2002, Hunt and Hunt 2006), and likely for Western burrowing owls (Smallwood et al. 2007) and prairie falcons (Bell, unpublished data). The PEIR should address the impacts to regional populations of these species. Careful review of fatality reports for the APWRA should be conducted to identify and include other species that may be suffering population-sink conditions in the APWRA. Monitoring of local populations at an appropriate scale should be required as a mitigation measure. For example, the US Fish and Wildlife Service recommends monitoring all golden eagle territories within 10 miles of a given wind farm project (Pagel et al. 2010) to ascertain population impacts through time.

Many species nest within the APWRA. The effect of large turbines and infrastructure in close proximity to nests should be evaluated along with mitigating buffers. This is especially critical for raptors such as golden eagle, Western burrowing owl, red-tailed hawk, Swainson’s hawk and prairie falcon. New guidelines produced by the US Fish & Wildlife Service (Pagel et al. 2010) for monitoring golden eagles in relation to new wind farm construction should be followed, as the repowering of the APWRA represents replacing old infrastructure with an entirely new set of infrastructure.

The Beechy ground squirrel is a major raptor prey species; it is also a keystone species for grasslands and is found throughout the APWRA. Efforts by landowners to control this species involve poisoning which often results in secondary poisoning of raptors and other predators. Ground squirrel control via poisoning within the APWRA should cease as a mitigation measure. The PEIR should explore ways to compensate ranchers for economic loss due to ground squirrels if they cease control measures. It should also evaluate ways to encourage landowners in areas that do not have wind turbines and have eliminated ground squirrels through past control efforts to promote ground squirrels. This would provide foraging habitat that may encourage raptor foraging in turbine free areas. The PEIR should evaluate other measures to discourage prey populations away from turbine strings, such as targeted vegetation management (Smallwood et al. 2009).

The PEIR should consider the extensive information on impacts and mitigation recommendations developed by the Alameda County SRC and in other relevant documents.

- What has the monitoring data for repowered turbines shown about avian mortality rates? Has overall mortality been reduced? Are the actual numbers consistent with the projected numbers?
- How are the individual species affected by the repowering project? In particular, how are golden eagles, burrowing owls and bats affected?
- How will the County use the monitoring, operation, citing and design information from other relevant projects to determine the potential effects and mitigate the impacts resulting from the proposed project? Repowering using GIS based risk maps of fatalities and flight behavior should be considered in the PEIR.
- Golden eagles are being killed at a rate that may well exceed sustainable levels in the region. If such mortality rates continue, might the individual or cumulative impacts to this species result in localized extinction of the species? How would the project mitigate for its cumulative contribution to this impact?
- How will the operation of fewer larger turbines affect the various birds and bats that use habitats in the project area? The repowered turbines “sweep” a larger diameter of air as it passes over the Altamont Hills. The blades on new turbines move at a different speed than existing turbines. How will these changes affect different species? For example, we understand that the new larger turbines are killing more bats than the existing turbines.

It appears that repowered turbines on the order of 1.0 MW or larger are causing increased bat fatalities in the APWRA relative to pre-repowered conditions (see Insignia Environmental 2009). Given this, a long term fatality monitoring program should be established that incorporates both bats and birds, and the impacts to bats species specifically should be assessed and measured as each repowering project comes on line. The development and implementation of mitigation measures for bats will likely depend on information that is yet to be collected, so flexible mitigation measures based on adaptive management and conditional targets will be required.

The proposed project calls for installation new larger turbines to replace the existing turbines in the project area. This will require removing turbines, foundations, pads and supporting utility connections. The EIR should examine the potential effects of removing the old facilities on numerous terrestrial wildlife species, including American badger, San Joaquin kit fox, ground squirrels, California tiger salamander and red-legged frog. These terrestrial species, along with the ground-nesting Western burrowing owl, make use of the habitats created by the original turbine projects. For example, the areas around existing turbine foundations can be riddled with ground squirrel burrows. These burrows may also be used by badger, kit fox, coyote, tiger salamander, red-legged frog and burrowing owl. Biological surveys should be conducted

within the disturbed areas to determine how best to restore natural habitats with minimal impacts to wildlife.

The EIR should also consider the impacts of constructing new roads and wind energy facilities in the project area. Construction of new roads, staging areas, pads, foundations, underground utilities, above ground utilities and turbines will all result in potentially significant impacts to terrestrial species. Excavation and grading may affect all of the above described species. Preconstruction surveys must be conducted to determine the extent and location of potentially affected terrestrial species. Measures must be implemented to avoid potential impacts and potentially impacted terrestrial animals should be relocated away from the project impact area. In some cases, such as for breeding burrowing owls, it would be necessary to wait until chicks have fledged before burrows could be destroyed. Buffers should also be established around active nests for eagles, falcons and other raptors.

The applicants should also establish procedures for securing the site during project construction to reduce the potential for impacts to biological resources. This would include new fencing, restrictive signage, setting and enforcing speed limits, and closure of certain roads to prevent contractors from unnecessarily entering areas where there may be sensitive resources, and other measures to protect the sensitive natural and cultural resources at the Preserve.

The PEIR should consider the cumulative effects of multiple repowering projects within the entire AWPRA, including the proposed Vasco Winds and Tres Vaqueros repowering projects in Contra Costa County. This analysis should consider both terrestrial and avian impacts during project construction, operation and maintenance activities.

On-going fatality monitoring should continue to place repowering and its mitigation in an adaptive framework.

The Preserve has a very rich assemblage of ecological communities, including perennial grassland, annual grassland, rock outcrop, sandstone basins, stock ponds, alkali seeps and meadows, perennial freshwater marsh, riparian scrub, and oak-buckeye woodland. All of these communities may be present in the project area. The DEIR needs to address potential impacts to each of these community types and to the special-status plants and animals that they contain.

As previously described, the District has also made a number of changes in the Preserve, including restoration of ecological communities and range management practices to improve wildlife habitat values. The District will continue to monitor these improvements and make adaptive management changes when necessary. Similar monitoring and management changes should also be implemented throughout the project area to reduce on-going impacts and to minimize the effects of repowering projects.

The PEIR should identify mitigation opportunities on two levels: the community level and the species level. Mitigating loss of highly impacted ecological communities, such as grasslands, would benefit guilds of species such as grassland song birds, California tiger salamanders, California red-legged frog, American badger, etc. Mitigating impacts to individual species, such

as golden eagle, will require species-specific mitigations that may involve a host of options, such as purchase of specific nesting habitat, purchase or enhancement of range and foraging habitat, and extending monitoring beyond the APWRA to encompass population-specific appropriate geographic scales.

A mitigation alternative should be explored: the phased shut down of existing wind farms based on time-to-repowering. For example, the Tres Vaqueros Wind Project, Contra Costa County, permanently shut-down its wind turbines about five months before a Notice of Preparation for the repowering of the wind farm was issued. By the time the EIR for this project will have been approved and construction is initiated, several years of turbine-blade caused avian and bat fatalities will have been avoided, such as an estimated 0.5 golden eagles, >12 red-tailed hawks, 9 American kestrels and 51 burrowing owls (Smallwood 2010 SRC-PI78) that would have otherwise been killed per year.

Although repowering of wind farms with fewer, larger wind turbines appears promising (Smallwood and Karas 2009), it does not eliminate avian or bat kills and may even be as bad or worse for some species. Preliminary evidence from monitoring the recently repowered Buena Vista Wind Farm (1.0 MW turbines) in Contra Costa County suggests that fatality rates for golden eagles remain high and bat fatalities may exceed pre-repowering rates (Insignia Environmental 2009, Smallwood 2010 SRC-PI78). Projecting the Buena Vista raptor fatality rates to the 25 MW proposed for the repowering of Tres Vaqueros Wind Project yields predicted mean annual fatalities of 3.5 golden eagles, 8.5 red-tailed hawks and 6.7 American kestrels for the eventual repowered wind farm (Smallwood 2010 SRC-PI78). It is therefore critical that the revised CUPs contain adaptive management language, modeled on existing SRC recommendations, to accommodate new information on the changing suite of avian and bat impacts in repowered wind farms, and to provide for language that includes relocating problematic infrastructure, if necessary.

The extent to which fatality rates may be reduced through repowering a wind farm depends on the species, site-specific topography of the wind farm, turbine size (rotor diameter, tower height) and location. Species-specific raptor flight behavior and land use patterns combined with fatality data are being used in conjunction with digital elevation mapping to create risk maps that identify potentially deadly sites for turbine locations in terms of risk of raptor/turbine blade strikes (Smallwood and Neher 2009, Smallwood et al. 2009a, Smallwood et al. 2009b). Such risk maps have been produced for a suite of species. The maps can be used to recommend and inform turbine siting plans both at the micro-siting level, eg. moving a turbine 5-10 m to reduce strike risk, and overall site evaluation, e.g. identifying sites that pose unacceptable risks and therefore need to be eliminated from turbine siting plans. This process of applying raptor-flight risk maps to site wind turbines is already being used in the development of the Tres Vaqueros Wind Project, Contra Costa County (Smallwood 2010 SRC-PI62). Careful repowering should be a requirement of the revised CUPs for the APWRA to reduce the risk of raptor fatalities in the repowered wind farms.

Even with careful repowering, continued avian and bat fatalities are to be expected. Therefore, continued fatality monitoring should be a requirement for the life of the CUP in order to gauge the success of overall repowering as a mitigation tool and to measure whether a 50% reduction

in the focal raptor species has been achieved. Continued and regular input by the SRC should be required to provide the necessary scientific oversight to gauge mitigation compliance and results.

Most of the impact from construction of the original wind turbine projects has gone unmitigated. Mitigation for wind turbine operational impacts has largely been experimental. Repowering of existing wind turbines presents an opportunity to fully mitigate the individual and cumulative effects of wind turbines in the project area.

The PEIR should identify mitigation opportunities and requirements, including development of the proposed HCP/NCCP, land preservation through conservation easement or fee title, collection of repowering fees, large-scale ecological restoration projects, removal of barriers to migration of terrestrial wildlife, protection of wildlife migration corridors, acquisition and retirement of wind rights on certain high resource value properties and selected removal of specific wind turbines that have high mortality rates.

Mitigation should focus first on measures to avoid, minimize and reduce impacts through time. On-site mitigation should be given priority over off-site mitigation, except when significant opportunities occur to remove migratory barriers or preserve unprotected migratory corridors.

Acquisition of mitigation land should not be based upon price; it should be based acquiring specific properties with high ecological values that most effectively meet overall mitigation goals and priorities.

The PEIR should provide for an oversight body that can review monitoring data and make recommendations on additional measures that may be implemented to further reduce on-going impacts from wind turbine operations and maintenance.

4. Water Quality

The proposed project should remove unneeded roads and associated drainage facilities. Some of the roads are in poor condition; some are highly erosive, causing substantial downslope sedimentation in wetlands and riparian areas, impacting the species that depend upon these habitats, including tiger salamander, red-legged frog and fairy shrimp.

Abandoned roads should be recontoured and restored with native perennial grasses. The restoration will need maintenance and monitoring for several years until successfully established. The applicants should be required to create an endowment, a management and monitoring plan, establish specific restoration objectives, conduct proposed improvements, and provided for long-term maintenance and monitoring of restored areas.

Temporary roads, potentially as wide as 40-feet may be necessary to construct the proposed project. Typical roads in the project area are 12 to 15 feet in width and appear adequate for the maintenance of existing wind turbines. To the extent feasible, the applicants should use

existing roads and utilize helicopters and cranes in order to reduce the amount of road grading necessary for construction of the proposed project.

Aerial construction methods are frequently employed by PG&E and other utilities to construct large electrical transmission towers in remote areas that are inaccessible from roads or where there are sensitive ecological habitats that cannot be disturbed. A recent example occurred in the Gateway Valley of Orinda where PG&E relocated about one mile of 500 KV electrical towers. PG&E used a monopole tower that was assembled in sections using helicopters. This method eliminated the need for construction of roads in some areas. This may be applicable to the proposed projects.

New access roads should be designed to minimize the potential for slope failure and erosion. Drainage should be contained and discharged in a manner that does not concentrate flows that scour hillsides or deposit sediments and other pollutants into wetlands and drainages. A portion of the project area drains into the Preserve.

Consideration should be given to the potential release of hazardous materials from demolition of existing turbines and construction of new facilities.

Maintenance of the proposed project also has the potential to release hazardous materials into the environment. This would include concrete, fuels, oils, solvents and paints. Of particular concern are hazardous materials that might be discharged into wetlands and drainages in the project area.

5. Cultural Resources

The Preserve has tremendous and regionally significant cultural resources from a long habitation by Native Americans. There are many artifacts from this history throughout the Preserve. As a result, the northern portion of the Preserve is closed to general public access and there is ongoing monitoring and police enforcement to protect these sensitive cultural artifacts. It is very likely that similar cultural artifacts may be encountered in the project area. This could include surface artifacts and burials that could be disturbed or destroyed during project construction.

There should be a thorough investigation of the project area to locate, document, avoid and protect cultural resources that may be affected by the proposed projects. A specific mitigation and monitoring plan should be developed that provides for construction monitoring (by a qualified archeologist) throughout the construction period. The project mitigation measures should also include contingencies should something be encountered during project construction. Information about the specific cultural resources of the area must be kept confidential and provided only on a need to know basis. Employees should be trained on procedures for identifying and protecting cultural artifacts that may be encountered during project construction.

The applicant should also establish procedures for securing the site during project construction to reduce the potential for vandalism and theft of cultural artifacts. This would include site

security and closure of certain roads to prevent contractors from unnecessarily entering areas where there may be cultural artifacts.

6. Maintenance and Operations

The DEIR should identify mitigation measures to be implemented (within the project area) to provide improved site security, including new gates that open and close properly, new fencing where needed, regular inspections by the site supervisor and employee training about the sensitive cultural resources in the area.

6. Visual Impacts and Aesthetics

The visual environmental at the Preserve includes a number of existing wind turbines to the east and north. Removal and replacement of old turbines with substantially larger new turbines may result in new or substantially increased visual impacts to the Preserve. Mitigation for such impacts may be elimination or relocation of turbines away from Preserve boundaries where turbines may be less visually intrusive.

The EIR needs to consider the individual and cumulative visual impacts of the proposed turbines in conjunction with other repowering projects in the area. We request that visual impact simulations be conducted from within the Preserve looking towards the new repowered turbines. The District is available to meet with County staff and/or project applicants to identify the most visually sensitive areas within the Preserve where visual impact analyses should be conducted.

The EIR should also address the cumulative visual effects of the three Contra Costa County repowering projects (i.e. Buena Vista, Tres Vaqueros and Vasco Winds).

There has been much discussion in the past about the colors and patterns that have been applied to the wind turbines. While making the turbine blades more visible for birds may be an overriding consideration, perhaps other improvements to the turbine towers and bases would reduce the overall visual impacts. For example, are there other colors or patterns that might make visually prominent turbine towers less visible from the Preserve?

Consideration should also be given to reducing the visual prominence of existing and proposed support facilities, such as maintenance yards, buildings, substations, transformers, etc. Are there surface treatments or screens that could be employed to reduce the visibility of these structures from the Preserve? Relocating and/or covering the surplus turbine parts would make them less visually prominent.

The hillsides in the project area near the Preserve have contained substantial amounts of debris from the past 25 years of wind energy generation, including derelict turbines, obsolete anemometers, unused electrical poles, broken turbine blades and abandoned roads. The proposed project provides the opportunity for the better management of these facilities. Regular inspection and enforcement of mitigation measures and conditions of approval by the County would improve the aesthetics of the areas surrounding the Preserve.

7. Emergency, Maintenance and Public Access

Laughlin Road is the only public access road to the Preserve. This road should remain accessible at all times for the public. Secondary access points from Dyer and Vasco Roads provide for District emergency and maintenance vehicles to reach the Preserve. These secondary access points must remain accessible during project construction.

The District may develop the planned "Morgan Territory to Brushy Peak Regional Trail" through the western edge of the project area. We are concerned about the potential public access restrictions that may be imposed in order to protect public safety from the repowered turbines. For example, the EIR should establish reasonable set-back requirements between turbines and roads that might be useable as future trails. The planned trail is shown on the District 2007 Master Plan map.

8. Project References

The following documents and references should be considered in preparing the PEIR.

Hunt, W. G. 2002. Golden eagles in a perilous landscape: Predicting the effects of mitigation for wind turbine blade-strike mortality. P500-02-043F. Consultant Report to California Energy Commission, Sacramento, California.

Hunt, G. and T. Hunt. 2006. The Trend of Golden Eagle Territory Occupancy in the Vicinity of the Altamont Pass Wind Resource Area: 2005 Survey. California Energy Commission, PIER Energy-Related Environmental Research. CEC-500-2006-056.

Insignia Environmental. 2009. 2008/2009 Annual Report for the Buena Vista Avian and Bat Fatality Monitoring Project. Unpublished report prepared for County of Contra Costa, Martinez, California.

Pagel, J. E., D. M. Whittington and G. T. Allen. 2010. Interim Golden Eagle technical guidance: inventory and monitoring protocols; and other recommendations in support of eagle management and permit issuance. Division of Migratory Bird Management, U.S. Fish and Wildlife Service.

Smallwood, K.S. 2007. Estimating wind turbine-caused bird mortality. *Journal of Wildlife Management* 71:2781-2791.

Smallwood, K.S. 2008. Wind power company compliance with mitigation plans in the Altamont Pass Wind Resource Area. *Environmental & Energy Law Policy Journal* 2:229-285.

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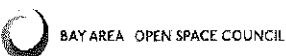
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October 8, 2010

Sandra Rivera, Assistant Planning Director
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 110
Hayward, CA 94544

Re: Altamont Pass Wind Resource Area CUP PEIR

Dear Ms. Rivera,

Altamont Pass is an area of special interest to Save Mount Diablo (SMD) because it offers a variety of aesthetic, biotic, and recreational resources, so we are concerned with any project proposed which may have impacts on this site. As part of that, we have been paying close attention to the planning process for the proposed Altamont Pass Wind Resource Area Habitat Conservation Plan/Natural Community Conservation Plan (APWRA HCP/NCCP) to understand how it may enhance or degrade the resources found there.

We appreciate that you have provided SMD notification about the proposed project and submit the following comments for consideration.

Save Mount Diablo's Position

Save Mount Diablo does not yet have a position on the proposed revisions to the Conditional Use Permits for repowering, maintenance, and operation of wind turbines in the APWRA. Nor do we currently have a position on the proposed Summit Wind Project or NextEra Wind Repowering Project. However, Save Mount Diablo has a number of concerns about the proposed turbine projects and believe they have the potential to have significant impacts on a number of sensitive resources in the area.

Project Description

The Notice of Preparation describes the project as having three distinct components: an update to existing Conditional Use Permits and two repowering projects that would replace existing wind turbines and related infrastructure.

The project proposes to update the Conditional Use Permits to make them consistent with the conservation strategy in the APWRA HCP/NCCP. Save Mount Diablo has no comment on the amendments to the CUPs for the NOP. We look forward to reviewing the information in the environmental impact report related to the CUPs.

In addition to the amendments to the CUPs, the NOP includes two repowering projects that cumulatively propose to install 119 new turbines to replace existing, aging turbines and their associated infrastructure. The first of these, the Summit Wind Project, proposes to construct 60 new 262-foot tall turbines. These new turbines would be served by a 33 kV line.

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infrastructure including foundations, access roads, electricity collection systems, and maintenance facilities. The NOP states that the applicant, Altamont Winds LLC, would construct these new turbines to replace existing, aging wind turbines and equipment. Existing turbines and equipment would be removed and the area returned to its natural state. However, the NOP does not provide the number of turbines nor the amount of associated infrastructure that will be removed as part of the project.

The second repowering project, known as the NextEra Repowering Project, would remove existing turbines and install 59 new 428-foot turbines, each with infrastructure similar to what is included in the Summit Wind Project. Again, the NOP does not specify the number of turbines that will be removed from the NextEra site as part of the repowering project. The NOP states that most roads will be decommissioned, except those needed to provide maintenance access to the new turbines, but leaves unclear how much land would be restored.

Combined, the Summit Wind Project and NextEra Repowering Project would install 119 new turbines ranging from approximately 262 feet and 428 feet in height. These new turbines will require a substantial amount of associated infrastructure that will potentially have significant impacts on a number of sensitive resources. Without knowing the number of turbines and amount of associated infrastructure that will be removed from the area, it is impossible to assess the level of significance of the cumulative impacts of these two repowering projects.

The environmental impact report should specifically list how many turbines and what accessory infrastructure will be removed as part of the repowering projects. Additionally, the EIR should include maps that show (a) the location of existing turbines and related infrastructure; (b) the turbines and related infrastructure that will be removed; and (c) the turbines and infrastructure that would be installed by the project. Furthermore, the EIR should specify the total number of acres that will be disturbed by the turbines and related infrastructure, including both permanently and temporarily during construction.

The NOP does not identify where in the APWRA the repowering projects would be located. It is difficult for the public to assess what impacts these repowering projects could potentially have on sensitive resources if we don't know the areas that will be impacted. The EIR should include maps that show the exact location of the repowering projects within the APWRA.

Potential Impacts for Consideration

The proposed repowering projects will potentially impact a number of sensitive resources in the Altamont area. Save Mount Diablo believes that the environmental impact report should consider the following:

Biological Resources

1) Avian Wildlife - Avian mortality is an issue of particular concern in Eastern Alameda County because of the large number of turbines in the area. These turbines have significant impacts on birds and bats in the area which collide with the turbines while soaring on wind currents and foraging for prey in the area's open grasslands.

The NOP does not state the exact number of turbines that will be removed as part of the repowering projects. Therefore, the public does not know whether there will be a net increase or decrease in the number of turbines in the area. If the repowering project results in a larger number of turbines in the area, how will this impact avian mortality?

How would the new turbines proposed for installation compare to the size of the existing turbines that will be removed? If they are larger, how would the addition of larger, taller wind turbines to the area affect avian mortality? Are there any studies which show that the larger turbines result in either an increase or decrease in avian mortality?

Different avian species fly at different heights. Constructing taller wind turbines would likely result in impacts to a different set of species than those that are currently impacted by the existing turbines. For example, many

bat species fly at an altitude higher than the existing turbines. Would the addition of taller wind turbines have impacts on any special status bat species that fly at higher elevations?

2) Terrestrial Wildlife – The Summit Wind Project and the NextEra Wind Repowering Project include a substantial amount of infrastructure removal and construction which would have significant impacts on a number of special status terrestrial species.

The EIR should analyze how the construction of 119 new wind turbines, new roads and other related new infrastructure will impact the habitat and movement of San Joaquin kit fox, the American badger, California red-legged frog, California tiger salamander, Western burrowing owl, among other species.

- a) Roads and Other Related Infrastructure – The Notice of Preparation indicates that new and improved roads as well as new pads, foundations, a new electrical collection system, meteorological towers, maintenance house facilities, and offices and a control center will be built in association with the repowering project.

It seems likely that a significant amount of soil will be graded for the construction of the access roads and other infrastructure. The EIR should include figures indicating the amount of soil which will be graded to complete new construction.

How would the grading of such a large amount of soil impact ground squirrel burrows which provide habitat for the San Joaquin kit fox, the Western burrowing owl, the California red-legged frog, the California tiger salamander, and other wildlife?

Based on the map included with the NOP, it appears the APWRA includes several streams and drainages with wetlands characteristics. The area appears to be used for cattle grazing and, as a result, there are a number of ponds in the area that also provide wetland habitat for special status species. Intense grazing can cause a significant increase in soil erosion in the area. Potential erosion of soil near wetlands would have impacts on wetland-dependent species. The grading associated with new roads and other infrastructure could impact streams and wetlands in the area. Additional roads and infrastructure will also increase the amount of impermeable surface, which has the potential to increase the amount and speed runoff, which, in turn, impact creeks. The EIR should include a map showing the exact location of all of the grading proposed for new roads and infrastructure in relation to the streams, drainages and other wetlands on the property.

A wetland delineation should be provided for the project site in order to properly evaluate the impacts of the project. The EIR should also assess the potential impacts of the project on the riparian habitat on the property.

- b) Removal and Construction of Wind Turbines – The construction of 119 new wind turbines would require additional grading and excavating which would also potentially impact burrows and wetlands used as habitat by special-status species. Furthermore, the removal of the existing wind turbines and the installation of new ones would substantially increase the amount of traffic accessing the property and travelling across the site. Each additional vehicle driving on the project site poses a threat to special status species moving through the area.

The EIR should address the impact of increased use of the roads within the project area, particularly with respect to wildlife habitat and movement.

The Notice of Preparation states that existing turbines and related facilities will be removed and the areas will be re-contoured. The document does not, however, specifically state how many existing turbines will be removed and whether all of the un-used turbines and related facilities will be

removed. In addition, although they would no longer be in use, existing roads and other infrastructure may impact wildlife and their habitat. For example, roads contribute to runoff and affect water quality and habitat of streams and wetlands. These potential impacts from the project should be evaluated in the EIR.

The EIR should include as mitigation the identification and removal of all of the existing facilities and infrastructure on the project site that will no longer be in use.

3) Rare Plant Species – The EIR should include an analysis of project impacts to all rare plants that may potentially occur in the area.

The grading and construction of new turbines and related roads and infrastructure, as well as the removal of turbines, could potentially have significant impacts on a number of rare plant species. Increased activity related to construction increases the likelihood of an accidental wildfire that could impact rare plants. Construction vehicles and machinery that are used at other sites could bring in seeds from non-native invasive plants to the project area that would out-compete native rare plants.

Aesthetic Resources

The Notice of Preparation states that the largest of the new turbines would be approximately 428 feet above ground level. However, the document does not indicate how much taller the proposed turbines would be than the existing turbines. The EIR should include these height differences. Furthermore, the EIR should include a description of the location of the new turbines related to topography. If the new turbines are located at higher elevations than the existing turbines, they would likely be more visible than if they were located on lower elevation.

Save Mount Diablo is concerned that the taller turbines may be more visible from greater distances and over ridge tops that hide the turbines present at the project site. The project area is currently characterized by rolling grasslands with high hills and ridgelines rising up above canyons and valleys. The EIR should evaluate whether the height of the proposed turbines make the wind farm visible above some of the surrounding ridges and increase visibility from greater distances. The project site is also located in close proximity to a number of preserved open spaces used for recreational purposes. Brushy Peak Regional Preserve is directly adjacent to, and nearly surrounded by, the APWRA. The NOP does not state specifically where in the APWRA the repowering projects will be located. The project's impacts to the visual character of the area should be considered from a number of trails and view points within Brushy Peak and from other important viewshed locations.

Therefore, the EIR should include provide significant visual analysis from a variety of perspectives throughout the region, not just in the immediate vicinity project.

Noise

The EIR should evaluate the potential noise impacts of the new wind turbines. In addition to the potential nuisance noise the turbines could present to hikers in nearby open space, the noise could have significant impacts on wildlife. For example, noise in some decibel ranges may disrupt the echolocation system that bats use to navigate. Excess noise could also stress other wildlife found in the area.

Cumulative Impacts

The EIR should consider land uses throughout the area in analyzing how this project will add to cumulative impacts on wildlife habitat and open space resources.

Contra Costa Water District has recently approved a project which would expand the Los Vaqueros Reservoir, resulting in the flooding hundreds of acres of land. The land that will be flooded includes habitat and movement corridors for a number of special status species in the area. Los Vaqueros Reservoir is just north of the

APWRA. As habitat for special status species within the watershed is flooded, other suitable habitat for those species, such as that found within the APWRA, will become even more valuable.

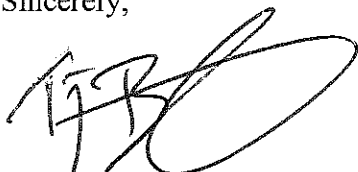
Most notably, the Los Vaqueros project would flood a San Joaquin kit fox movement corridor on the western side of the reservoir. As a result, the only grassland corridor connecting the preserved open spaces in east Contra Costa County to the core of the kit fox habitat in the Altamont Hills and San Joaquin Valley would be the grasslands to the east and south of the reservoir. In other words, the proposed project site for the wind repowering projects would be part of the only remaining connection for kit fox dispersal. The significance of each kit fox den affected by grading and each kit fox potentially struck by a construction vehicle on the project site is greater when considering the loss of the kit fox corridor on the western side of Los Vaqueros.

Additionally, the Tres Vaqueros Wind Repowering project and the Vasco Winds project are currently being considered by Contra Costa County on land directly to the north of the Vasco Winds project. The Tres Vaqueros project proposes to replace 86 wind turbines with 42 larger wind turbines. The Vasco Winds project proposes to replace 420 wind turbines with 54 larger turbines. These projects are located just north of Highway 580 in close proximity to the APWRA repowering projects being considered by Alameda County. If both Contra Costa County projects are approved along with the two proposed Alameda County projects, the cumulative impacts on special status species and their habitat would be even more significant.

The EIR should consider the cumulative impacts of the Summit Wind Repowering Project and the NextEra Wind Powering Project along with the proposed Los Vaqueros project, the Tres Vaqueros project, the Vasco Winds project and other proposed or potential projects in the area.

Thank you for the opportunity to make comments on this project. SMD requests to receive notice of any further filings and will provide additional comments and questions at that time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Troy Bristol', with a large, stylized flourish at the end.

Troy Bristol
Land Conservation Associate

