



**ALAMEDA COUNTY CDA  
PLANNING DEPARTMENT**

**STAFF REPORT**

**TO: EAST COUNTY BOARD OF ZONING ADJUSTMENTS  
HEARING DATE: JULY 18, 2013**

**GENERAL INFORMATION**

**APPLICATION: MODIFICATION OF 16 CONDITIONAL USE PERMITS**

**OWNER/ APPLICANT: ALTAMONT WINDS, INC. & WINDWORKS, INC.**

**REQUEST:** To modify conditions on 16 conditional use permits, for continued operation of existing utility-scale wind turbines with a combined generation capacity of 85.8 MW, specifically to eliminate phased removal and wintertime shutdown as specified in Exhibit G of the CUPs approved in 2005 and as amended as Exhibit G-2 in 2007, and provide for decommissioning and removal of the existing wind turbines after December 31, 2015.

**SPECIFIC PERMITS, OPERATORS, PROPERTY OWNERS AND PARCEL NUMBERS:** Conditional Use Permit Numbers, Facility Permittee/Land Owner family names and 44 Assessor's Parcel Numbers (APNs) as follows:  
C-8036, Altamont Infrastructure Company/Frick & Costa, APN: 099B-5680-015-00;  
C-8037, Altamont Infrastructure Company/Pombo, APNs: 099B-6300-002-01, 099B-6300-002-02, 099B-6325-002-03, 099B-6325-002-04 and 099B-6425-001-06;  
C-8134, Altamont Infrastructure Company/Rooney, APN: 099B-6125-002-00;  
C-8137, Altamont Infrastructure Company/Mulqueeney, APNs: 099A-1800-002-03, 99A-1800-002-04, 99B-7890-002-04, 99B-7890-002-05, 99B-7900-001-05, 99B-7900-001-07, 99B-7910-001-01, 99B-7925-002-04, 99B-7925-002-05, 99B-7975-001-00, 99B-7980-001-00, 99B-7985-001-03, 99B-7985-001-04, 99B-7985-001-05, 99B-7985-001-06 and 99B-8050-001-00;  
C-8191, WindWorks Inc./Mulqueeney, APN: 099B-7910-001-01;  
C-8216, WindWorks Inc./Alameda County Waste Management Authority, APN: 099A-1810-001-00;  
C-8232, Altamont Infrastructure Company/Guichard (formerly Egan), APN: 099B-6125-003-00;  
C-8233, Altamont Infrastructure Company/Elliott, APN: 099B-6125-004-00;  
C-8235, Altamont Infrastructure Company/Corbett, APNs: 099A-1785-001-14 and 099B-5650-001-04;  
C-8236, Altamont Infrastructure Company/Dunton, APN: 099B-5680-001-00;  
C-8237, Altamont Infrastructure Company/DeVincenzi (formerly Valhalla Enterprises), APNs: 099B-5610-001-00 and 099B-6075-003-00;  
C 8238, Altamont Infrastructure Company/Ralph Properties II, APNs: 099B-7375-001-07, 099B-7300-001-05 and 099B-6325-001-03;  
C-8241, Altamont Infrastructure Company/Walker Family Trust, APNs: 099B-6100-002-10, 099B-6100-002-11, 099B-6100-003-10, 099B-6100-003-11, and 099B-6100-003-15;

C-8242, Altamont Infrastructure Company/Marie Gomes Farms,  
APNs: 099B-6150-002-07, 099B-6150-003-00 and 099B-6150-004-10;

C-8243, Altamont Infrastructure Co./Alameda County Waste Management  
Authority: APNs: 099A-1770-002-01, 099A-1770-002-02, 099A-1770-002-03,  
099A-1780-001-04, 099A-1790-003-00 and 099A-1810-001-00; and

C-8244, Altamont Infrastructure Company/Marie Gomes Farms,  
APNs: 099A-1795-001-00, 099A-1790-002-00 and 099B-6425-002-03.

**ZONING:** A-BE 160 and A-BE-320 (Agriculture, Minimum Building Site Area 160 and 320 acres, respectively) Districts, intended to promote implementation of general plan land use proposals (or designations) for agricultural and other non-urban uses, to conserve and protect existing agricultural uses, and to provide space for and encourage such uses in places where more intensive development is not desirable or necessary. (Section 17.06.010). Permitted uses include a variety of agricultural and agricultural support uses, including crop, vine and tree farms, animal husbandry, wineries, fish hatcheries, trails, and on qualified building sites, single family and secondary dwelling units. Conditionally permitted uses include privately-owned wind electric generators.

**GENERAL PLAN DESIGNATION:** The site is subject to the East County Area Plan (ECAP), adopted in 1994 and amended substantially in November 2000 by the voter-approved Ordinance/Initiative Measure D. The ECAP designates the site as Large Parcel Agriculture (LPA), and establishes minimum parcel sizes for specific areas of the East County (100 acres for the subject parcels) and maximum building intensity (floor area ratio or FAR). Subject to the provisions, policies and programs of the ECAP, the LPA designation permits one single family residence per parcel, agricultural uses, agricultural processing facilities, public and quasi-public uses, quarries, landfills and related facilities, “windfarms and related facilities, utility corridors and similar uses compatible with agriculture.”

**ENVIRONMENTAL REVIEW:** Pursuant to the California Environmental Quality Act (CEQA), the County prepared an Environmental Impact Report (EIR) for the proposed modifications to the CUPs. The Draft EIR was released for public review and comment on March 6, 2013, and circulated through April 19, 2013. A Response to Comments document was completed and provided to those persons and organizations who commented on the Draft EIR, 10 days prior to the subject hearing on the proposed project. The Response to Comments document, together with the Draft EIR constitute the Final EIR..

#### **RECOMMENDATIONS:**

That the East County Board of Zoning Adjustments take public comment on the proposal, review the Final Environmental Impact Report, the Mitigation Monitoring and Reporting Program (MMRP), other attachments including two draft Resolutions, then certify the Final EIR by adoption of the first Resolution and approve the project, as mitigated (the project plus wintertime seasonal shutdown) by adoption of the second Resolution and proposed draft conditions.

## **PERTINENT FACTS:**

Physical Features: The subject CUPs are widely distributed across the Alameda County portion of the Altamont Pass Wind Resource Area (APWRA). The APWRA comprises an approximately 50,000-acre area that extends across the northeastern hills of Alameda County and a smaller proportion of Contra Costa County to the north. The region is generally characterized by rolling foothills of annual grassland. The area in which the CUPs are permitted is mostly treeless with relatively steep terrain on the west and gently rolling hills on the east toward the floor of the Central Valley. The underlying landscape generally consists of undeveloped grazing land. Major features of the area include the wind turbines, ancillary facilities, an extensive grid of high voltage power transmission lines, substations, microwave towers, a landfill site, Interstate 580, railroad track lines, ranch houses, and clusters of rural residential homes on Dyer and Midway Roads.

History/Background: A general history of the APWRA was provided in the prior staff reports for the BZA's hearings in March and June of 2013. However, those staff reports did not include more recent history that is important for context and consideration of the AWI permit modification request, regarding the Settlement Agreement adopted in 2007. After approval of the CUPs in 2005, a coalition of five regional Audubon groups (including the Golden Gate Audubon Society – GGAS) and Californians for Renewable Energy (CARE) initiated a lawsuit to overturn the approval. Mediation ordered by the court, with the involvement of the California Department of Fish and Game (CDFG, now the Department of Fish and Wildlife, or CDFW) led to a Settlement Agreement between Audubon, CARE, the County and the wind power companies to enable continued operation of the wind farms, reduce raptor mortality by 50 percent from fatality levels as of 2005 within three years of the agreement (January of 2010, based on the fatality rates of four focal species – golden eagle, burrowing owl, American kestrel and red-tailed hawk), shut down specific turbines identified as hazardous, enable a Scientific Review Committee (SRC)-sponsored blade painting study, and develop a Natural Communities Conservation Plan (NCCP).

Although AWI participated in most of the mediation discussions, it was not a final party to the Settlement Agreement, and therefore the 920 turbines it owned were not subject to its terms. The Settlement Agreement instead applied only to three wind farm power companies, including: FPL Energy, SeaWest Power Resources, LLC and enXco, Inc. (together referred to as the “Settling Companies”).<sup>1</sup> To implement the Settlement Agreement, the Board of Supervisors adopted a new Resolution to implement the Settlement Agreement for the Settling Companies, R-2007-111, which incorporated the components of the Agreement, and furthermore, eliminated some of the requirements contained in Exhibit G to shut down their turbines on the specified schedule – 10 percent by 2009, an additional 25 percent by 2013, a combined 85 percent by 2015 and the remaining 15 percent by 2018. The requirement for preparing an

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<sup>1</sup> FPL Energy is now NextEra Energy Resources, LLC; SeaWest Power Resources, LLC has sold its turbine assets to FloDesign Wind Corporation; and enXco, Inc. is now EDF Energy Resources, LLC.

As indicated in prior staff reports, two or more CUPs had sometimes been issued in the 1980s and 90s to different wind companies operating on the same parcel. When the CUPs were extended in 2005, they were issued according to the property owners and not the companies, so that individual permits apply to turbines owned by different companies. Because AWI was not a party to the Settlement Agreement, many permits and parcels contain turbines subject to the Settlement Agreement, as well as turbines that are “beneficially owned” by AWI, and not subject to the Settlement Agreement.

Another wind power company, Altamont Infrastructure Company, LLC (AIC, a limited liability company), holds 21 of the 31 CUPs, but does not own individual turbines. Instead, AIC provides management services for the wind power companies, such as the maintenance of power lines, roads, substations and the computer operating system. Under this arrangement, AIC manages 21 CUPs for turbines that are owned “beneficially” by one or more of the other wind power companies, including 14 CUPs that contained turbines owned by AWI. Because it does not own turbines, AIC is not itself either a Settling- or a Non-Settling Company.

EIR to evaluate operation of the old generation of turbines and future repowering was also eliminated; the emphasis was on achieving the 50 percent reduction in raptor mortality, the contingency of adaptive management plans, removal of hazardous-ranked turbines, and the initiation of the NCCP (and a Habitat Conservation Plan or HCP, as regulated by the United States Fish and Wildlife Service {USFWS} under the federal Endangered Species Act {ESA}). A separate Settlement Agreement between NextEra Energy Resources, the Audubon Society and the state Attorney General in 2010 provided assurance that the old generation of turbines would cease operating by the end of 2015. NextEra and the other companies are part of a consortium that is funding the preparation of a program EIR to address repowering and decommissioning of the existing turbines. The requirements of the 2005 CUPs (Exhibit G) for permit review by the East County Board of Zoning Adjustments after three years (2008) and again after eight years (2013) were also eliminated for the Settling Companies. The revised Exhibit G for these companies became Exhibit G-1; for the non-Settling Company (AWI), Exhibit G-2 was adopted as a continuation of the original conditions, and it applies only to the 828 currently permitted turbines owned by AWI.

Since the Settlement Agreement was adopted in 2007, the 50 percent reduction in mortality of the four focal raptor species was determined by the SRC (in 2012) to have been reached by 2010, and additional adaptive management plan strategies were therefore not required. Due to changes in the program priorities of the USFWS and the CDFW and the 2010 Settlement Agreement between the state Attorney General, Audubon Society and NextEra Energy, the NCCP and HCP programs were discontinued, and the focus has shifted to developing an Avian Protection Plan (APP) meeting state and federal guidelines, preparing a program EIR for repowering, initiating repowering, and continuing monitoring to ensure the 50 percent reduction in raptor mortality is sustained.

Also since 2012, one of the Settling Companies, EDF Energy Resources (formerly enXco Energy Resources), submitted an application in December 2012 for replacement of 317 turbines with between 7 and 12 new generation turbines (1.8 to 3.0 MW each). Secondly, SeaWest Power Resources sold its interest in its original 433 turbines (approximately 380 remaining) to FloDesign Wind, LLC, which proposes to remove between 70 and 80 existing turbines and replace them with 40 specialized high-efficiency “shrouded turbines” (the Sand Hill Wind Project), for which a separate EIR and research program is being prepared, that represents a specialized form of repowering. However, as part of the research program, up to 250 old generation turbines would remain in place through 2015. NextEra Energy Resources is also expected to submit its application for repowering its assets of approximately 1,600 turbines in 2014. Therefore it is expected that all of the old generation turbines owned by the Settling Companies will have been removed by the end of 2016.

In overall terms, therefore, while AWI is subject to requirements to shut down 230 of its turbines (25% of its original 920 turbines) in September 2013 and another 460 in September 2015 (50% of the 920), and prepare an EIR to address both ongoing operations and repowering activities under Exhibit G-2, the Settling Companies, which hold over 70 percent of the turbines in the APWRA, are not subject to these particular phased decommissioning requirements under Exhibit G-1. However, both AWI and the Settling Companies are subject to winter seasonal shut down requirements.

## **PROJECT DESCRIPTION**

AWI applied to Alameda County in July 2011 to modify its CUPs, specifically to eliminate requirements approved in September 2005 (under Condition 7, Exhibit G, the Avian Wildlife Protection Program and Schedule, and sustained for AWI after 2007 in Exhibit G-2) that AWI: 1) participate in the annual winter-time seasonal shutdown (WSSD), currently set between the 1<sup>st</sup> of November to February 15<sup>th</sup> of each year for 100% of its turbines; and 2) follow the required timeline for permanent shut down and removal of its turbines, which would require shutdown of 25 percent of its turbines in September 2013, and instead

require AWI to permanently shut down 100% of its turbines on December 31, 2015. Additionally, the application proposes addition of language to Exhibit G-2 requiring the County to consider the human health, wildlife and climate benefits of wind power generated in the APWRA when making its regulatory and use permit decisions.

Because the proposal does not include repowering of the AWI turbines at the present time, the project includes decommissioning of the existing turbines and AWI's share of related APWRA infrastructure after 2015. Decommissioning consists of removing turbines and associated facilities, and reclamation of their sites, and would commence in 2016 and be completed by 2017. In other respects, the proposed project involves no physical changes to existing turbines or related infrastructure prior to decommissioning activities, but only changes to the months or times of operation and the decommissioning schedule. It may also be noted that the decommissioning procedures and requirements set forth in the Draft and Final EIR would apply to AWI's turbines whether the project was approved or not.

Complete shut down and decommissioning is a current requirement of the CUPs, to occur in stages between 2009 and 2018; however, the requirements were directly linked to a schedule for repowering the wind farms. For example, by March 31, 2012, the middle of the seventh year, the Permittee (AWI in this instance) was to have initiated applications for repowering a net 35 percent of their turbines. However, due to market conditions, uncertain tax policies, lack of contracted power purchase agreements and unsettled property lease negotiations, AWI has not been in a position to initiate a repowering program. While AWI has indicated its intent to repower its original wind power plant of 920 turbines with the Summit Wind Project, which is now included in the cumulative project setting in the Final EIR, AWI has also indicated it is an uncertain proposal, and therefore the project, for the purposes of both the EIR and the draft Resolution to approve the CUP modifications, is considered an 'end of life' proposal. More specifically, the decommissioning activities anticipate restoration of range and pasture lands from areas of turbine and equipment foundations, service roads and other staging areas, by reseeding with native grasses. In contrast, repowering is likely to involve expansion of some roads and quite substantial new foundations.

The project objective is additional operation of the AWI turbines for greater efficiency (year-round vs. partial-year operation), increased renewable energy output to help meet the state's goals for renewable energy, reduced emissions of carbon dioxide and other greenhouse gases that result from conventional energy production, and sustainable company revenue.

## **ENVIRONMENTAL REVIEW**

EIR Summary. Although the proposed modifications to the CUPs do not alter the physical environment before decommissioning, the CUPs required that EIR be prepared to evaluate the environmental impacts of a repowering program and to also evaluate continued operation of existing turbine facilities and their progressive removal or phased decommissioning; the subject Draft EIR is intended to comply with the latter requirement, but does not address repowering of the AWI turbines, because AWI does not currently have a repowering proposal. At the time that AWI proposes repowering, a separate project EIR will be required. A separate, combined program-project EIR is being prepared on behalf of a consortium of wind farm operators, which AWI is required to participate in, to address overall repowering of the Alameda County portion of the APWRA on a program level, and some specific repowering projects that have been proposed as described above. A separate EIR will be required for AWI when it proposes to repower.

As summarized in the staff report for that hearing, the DEIR identifies the environmental impacts of the project, and it's analysis of biological resources indicated that the proposed CUP modifications (the "project") would have significant adverse impacts on special-status avian species (Impact BIO-1),

specifically including the four focal raptor species, either directly or indirectly (i.e. through habitat modifications). These focal species include American kestrel, burrowing owl, golden eagle and red-tailed hawk. These project impacts were specifically distinguished (and quantitatively estimated as projected fatality rates, for each species individually and collectively), as those occurring as a result of both year-round operation through the winter season, and continued operation of the 828 wind turbines through the end of 2015. The changes in fatality rates were defined in particular as occurring over and above the fatality rates anticipated from No-Project conditions (i.e., the baseline, or without changes to the existing conditions of the CUPs). Impact BIO-1 was defined to also encompass the environmental effects of both decommissioning activities such as foundation removal, as well as the effects of operations of the project turbines through 2015. Other specific impacts were identified as the result of decommissioning activities (e.g., removing turbine and infrastructure foundations) and that were required to be addressed in the EIR by the CUP conditions of 2005, although those activities are not part of the operational changes to the conditions sought by the applicant.

Table 3.2-5 (p. 3.2-31 in the DEIR) compares the fatality rates, and indicates an increment, for example, of between 21.9 and 34.4 additional red-tailed hawk fatalities from the project as compared to the baseline, and 4.6 to 6.5 golden eagle fatalities on the same comparison. However, with the proposed mitigation BIO-16 to continue the winter seasonal shutdown, while permitting the proposed project element of deferring the shutdown of the 25% of AWI's turbines, the respective fatality rates for these species was estimated to be reduced respectively to between 3.5 and 5.5 (red-tailed hawk) and 0.7 to 1.0 (golden eagle). Nonetheless, while these impacts were considered to be reduced to less than significant levels for three of the four focal raptor species, because the golden eagle is a fully protected species under state and federal law, the potential eagle fatality is considered to be an unavoidable adverse impact that cannot be reduced to a less than significant level. To mitigate the statistically-projected one eagle fatality, mitigation measure (MM) BIO-17 is proposed, which would use one of the strategies recommended by the USFWS *Draft Eagle Conservation Plan Guidelines* (2011), to retrofit utility poles on the site or in the vicinity, at a ratio of 29 such poles per eagle death. However, the impact on golden eagles, and on all other special status avian species would remain significant and unavoidable.

Although the project impact on avian species was deemed significant and unavoidable, the DEIR also determined that some significant impacts on biological resources, and in particular the impacts of decommissioning activities could be reduced to less than significant levels after mitigation is implemented, including: impacts on special-status terrestrial species (i.e., non-avian species), including direct and indirect impacts; adverse effects on riparian habitat and other sensitive natural communities; and potential adverse effects on state or federally protected wetlands through direct removal, filling, etc. Additionally, potentially significant noise impacts could result, including exposure of residences to increased wind turbine noise (i.e., during additional months of each year), and exposure of residences to noise during decommissioning activities. However, these noise impacts could be reduced to less than significant levels with implementation of identified mitigation measures. The DEIR also determined that no significant impacts would result from hazards due to the transportation of hazardous materials, or due to wildland fires, in the course of additional months of operation during the winter or related to decommissioning. Analysis of air quality impacts including the emission of greenhouse gases (GHGs) also indicated no significant adverse impacts of the project or its alternatives, although the project and some of alternatives had greater offsets of GHGs than the No Project Alternative.

The DEIR addressed four alternatives, including the No Project Alternative, and three others, representing the Project only modified to include the winter seasonal shutdown (i.e., retaining the existing shutdown requirement) (Alternative 1); the Project also with a winter seasonal shutdown but with continued operation of the 828 existing wind turbines through October 31 of 2016 (about one year longer than the Project as proposed) (Alternative 2); and the Project, again with winter seasonal shutdowns, but operating all turbines through September 30 of 2018 (Alternative 3). The winter seasonal shutdown is a principal

component of all of the projects, and is proposed to be removed only by the project as proposed by AWI. The comparison among the alternatives focused on the varying impacts on biological resources, especially fatality rates for avian species of concern, air quality and the emission of GHGs (both directly from decommissioning activities and indirectly by offsets of GHG emissions by non-renewable energy production sources), noise from turbines affecting a number of homeowners in the area, and the relative risks and hazards of wildland fires for each alternative.

Draft EIR Comments. During the comment period (March 6 to April 19, 2013) the East County BZA held a public hearing (on March 28, 2013) to take public comments on the DEIR. Written comments on the DEIR were submitted by five public agencies, the APWRA Scientific Review Committee (on consensus, and from each member individually), AWI, three Audubon Society chapters (one jointly by the Golden Gate and Santa Clara Valley chapters), and two individual area residents. Many individual comments did not directly address the analysis in the Draft EIR as intended by CEQA but were instead comments on the merits of the project itself or the alternatives, and variably with or without supporting evidence or explanation. The following summarizes certain important comments on both the Draft EIR *and* the project merits, which had the most consequence for revisions to the Draft EIR (presented in the Errata section of the Final EIR), topmost legal and procedural issues:

*U.S. Fish and Wildlife Service:* The Service recommends, as a comment on the merits of the project rather than on the Draft EIR, that the County select the No Project alternative, but emphasizes retaining the WSSD. However, the letter also states that “it is clear that Alternative 1 will result in the (sic) reduced numbers of avian deaths caused by wind turbine operation.” (Comment A4-4). Its letter begins with a brief summary of its mandate to maintain healthy bird populations pursuant to the MBTA and BGEPA (A4-1). It goes on to state that “Because [the] MBTA does not provide a specific mechanism to permit “incidental” take [of migratory birds (i.e., unintentional harming or killing birds by operating the turbines, for example)], it is important for proponents to work proactively with the Service to avoid and minimize take.” (A4-2). The Service also recognizes that some birds may be killed on the wind farm sites even if all reasonable measures to avoid take are implemented (A4-2). The Service cites the Bald and Golden Eagle Protection Act (BGEPA) that has provisions for incidental take of such eagles that is “associated with, but not the purpose of an otherwise lawful activity, and cannot practicably be avoided.” On these grounds, the Service recommended: 1) continue the WSSD, which is noted as being effective in reducing fatality of golden eagles and red-tailed hawk; 2) retain the schedule of phased shutdowns under the existing CUPs; 3) have AWI apply for an eagle take permit; and 4) require AWI to provide evidence of due care in voluntary adherence to the Service’s Eagle Conservation Plan Guidance and early communication of all related studies, monitoring results, plans, etc. (A4-5 through -7). The Service states that “failure to remove hazardous turbines and failure to continue seasonal shutdowns demonstrates a lack of due care.” (A4-8).

*California Department of Fish and Wildlife:* The Department notes its jurisdiction and related state code, procedures for issuing an Incidental Take Permit (ITP) for the project, and the County’s obligation as the lead agency under CEQA to avoid or mitigate significant impacts on threatened or endangered species to less-than-significant levels unless the County makes and supports a Statement of Overriding Considerations. (A5-2). It also notes that “take” or disruption of active bird nests is regulated by the state Fish and Game Code, and that for any planned removal of vegetation, appropriate avoidance and minimization measures should be identified in the Final EIR (A5-3). More notably, the Department advised that an ITP under the California Endangered Species Act (CESA) would be warranted for the potential take of various terrestrial species protected by CESA, including California tiger salamander, San Joaquin kit fox and other special status species, some of which are also protected by the federal Endangered Species Act (ESA), in the course of decommissioning and restoration activities (A5-4 &-5). The letter also provided specific recommendations for clarification and modification of individual mitigation measures (A5-6 through -17).

A key objection of the Department is that the mitigation measures identified in the DEIR (such as BIO-3) provide for completion of full biological resource impact assessments prior to construction; the Department states that the complete assessment should be included in the CEQA document (i.e., in a revised Draft or in the Final EIR) (A5-11, -12, -14, & -16). In summation, the Department recommends retaining the WSSD as an effective method of reducing fatality rates for golden eagle and red-tailed hawk (A5-18). The letter concludes with a general comment of support for development of renewable energy projects that comply with state and federal laws and provides for measures that effectively avoid or minimize effects on native species (A5-19).

*East Bay Regional Parks District:* The District's comments on the merits of the project include a statement that while the project and its three alternatives would yield additional renewable energy production, it would be at the expense of increased avian mortalities (A1-1). In addition, it states that efforts should be directed toward repowering rather than changing the conditions to prolong the operation of the existing wind farm (A1-7). The District notes an estimation of a 60% increase in avian fatalities for the project as compared to the baseline or No Project conditions, and a take of between 1 and 16.6 eagles per year for the various alternatives to the project (A1-2). Calling the APWRA and its wind farm infrastructure "a population sink" for eagles (in that its population 'drains' over time and is not replenished due to the wind farm hazards), the District states that "Any additional golden eagle mortality in the APWRA at this point is unacceptable, given the uncertainty surrounding its population stability." (A1-2). The District also recommended modification of mitigation measure BIO-17 regarding power pole retrofits (A1-3), and for the project proponent to apply for an eagle take permit pursuant to the BGEPA (A1-6). In concluding, the District stated that "the only acceptable project listed in the draft EIR is the No Project alternative." (A1-8)

*Scientific Review Committee (SRC):* The consensus comments of the SRC noted that because the Monitoring Team data included the period of the WSSD (during which the turbines are shut down, and thus reflecting lower mortality rates than would occur on an annual basis if the turbines were operating), the actual fatality rate resulting from the project would be higher (O1-1). A suitable disclaimer to the mortality rates was recommended, along with modified analysis to reflect the proposed winter season operations (O1-1). The SRC also concurred with the DEIR identification of the significant impact of the project on avian mortality, and the identification of a continued WSSD as a mitigation measure (O1-2). Lastly, the SRC recommended consideration of additional mitigation measures such as hazardous turbine removal or other measures identified by the USFWS for golden eagle mitigation (O1-3).

*Golden Gate Audubon Society, with Santa Clara Valley Audubon Society:* The Audubon Society letter provided extensive and detailed comments on both the DEIR and the merits of the project. It summarized its comments on the DEIR as being deficient in describing the project, explaining conflicts between the project and existing laws and policies, evaluating the biological impacts, assessing the alternatives, and defining cumulative impacts (O3-2). The letter begins with a summary of certain requirements of CEQA and then reviews several state and federal laws, including MBTA, BGEPA, California Fish and Game Code and the public trust doctrine, and asserts that the DEIR fails to show how the project would violate or conflict with those laws (O3-3 to -12). Some of the key comments about the DEIR follow:

- The DEIR does not provide a basis for the County to legally permit operations known to violate the MBTA, BGEPA, state Fish and Wildlife Codes and the public trust doctrine (O3-4 to O3-12).
- The process of decommissioning is not adequately described (O3-13);
- The analysis is not based on surveys for special-status species (O3-22);
- The DEIR "fails to include any worthwhile information about bats..." (O3-22);



- Mitigation Measure BIO-1 lacks assurance of implementation (suggested modifications to the timing of pre-construction surveys were also provided) (O3-24);
- Determination that there would be a less than significant impact on the movement of native resident wildlife species or impede use of native wildlife nursery sites (Impact BIO-4) is in error, because the killing of birds will inevitably impede movement and use of nursery sites (O3-27);
- Several mitigation measures are inadequate to avoid or reduce the impacts they are intended to address, and various modifications to the mitigations were identified (O3-25, -26, -30, & -33);
- Mitigation measures should include use of radar, adjusting cut-in speeds, use of human observers, and additional public compensation for each bird killed (O3-32, -44);
- Alternative 1 was incorrectly named as the Environmentally Superior Alternative, although it would result in higher avian mortality rates than the No Project Alternative (O3-34);
- The DEIR fails to address how current monitoring and adaptive management efforts would be unnecessarily complicated by the project or Alternatives 1 or 2 (O3-37, -40);
- The DEIR does not adequately identify the cumulative impacts of the project or its alternatives (O3-41); and
- The basis for making required Findings of Overriding Considerations do not appear to be supported by the analysis in the DEIR (O3-44).

Other comments by the Audubon Society address the project merits, that approving anything other than the No Project alternative would have adverse policy implications, because it would provide a disincentive for other companies that are working towards repowering (O3-2). As noted above, there are repeated comments that the DEIR does not enable the County to legally permit wind farm operations that violate the MBTA, BGEPA, state Fish and Wildlife Codes and the public trust doctrine (O3-4 to O3-12); however, these are considered to be comments on the project decision itself, and on the jurisdiction of state and federal agencies that enforce those laws and codes, rather than the adequacy of the EIR itself.

The Audubon Society letter also states that “there is no net gain in power generation derived from this project under either Alternative 1 or Alternative 2. Thus there is need for the project at all...” (O3-16). The letter continues on this theme and states that the project goals stated in the DEIR, such as enhancing the potential for future repowering, are not supported by evidence, and that the project only serves to increase the proponent’s profits and do not make any meaningful contribution as claimed by the proponent to California’s renewable energy portfolio, provide significant benefit to human health or wildlife, reduce climate-changing pollutants (aka GHGs), or benefit Alameda County’s economy (O3-17 to -21<sup>2</sup>). The letter states that the proponent should provide evidence to support these stated benefits for any use in findings of overriding considerations (O3-21). The conclusion of the Audubon Society letter is that the County should not approve the project or any of the alternatives, because it only serves the interests of the proponent and would reverse progress made in recent years in reducing avian mortality and being more economically and ecologically sustainable (O3-45).

*Altamont Winds, Inc.:* The project proponent (AWI) provided a letter that broadly critiqued the DEIR and sought re-analysis of the major issues. Several comments were limited to clarifications or corrections (O4-2 to -5, & O4-36), but the focus was on the methodology used in the assessment of the avian mortality impacts of the project and the alternatives (O4-9 through O4-25). Firstly, AWI believes that only the monitoring data from the bird years 2008 to 2010 should be used to project avian mortality, because the alternate data from 2005 to 2010 includes data reflecting operation of hazardous turbines that were removed prior to 2009, thus exaggerating the impacts of the project

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<sup>2</sup> Note: Comment reference numbers O3-17 & -18 were out of sequence due to a typographical error.

(O4-10). Secondly, AWI requested the EIR authors use “historical capacity factors” that represent actual turbine operating time, instead of the installed nameplate capacity (O4-11 to -13). A third comment on the methodology requested additional discussion of the differences in avian mortality rates based on monitoring when the WSSD was in effect, from the rates that would result with the project, without a WSSD (O4-14 to -16). The fourth comment regarding the DEIR is that it does not provide evidence of the benefit of the WSSD (O4-17), especially in light of how the wind energy of the project would offset various pollutants (generated by conventional coal or gas-fired power plants) and thereby benefit the region, wildlife and human health (O4-18, -21). Lastly (as to comments addressing the avian impact analysis), based on its calculation of actual operating capacity and with the WSSD in place as mitigation measure BIO-16, AWI asserts that mitigation measure BIO-17 (retrofitting power poles at a ratio of 29 poles per single estimated golden eagle fatality, using USFWS Guidance) is unnecessary, because the projected number of golden eagles killed would be between 0.2 and 0.3 (O4-19, -20).

The letter also requests the DEIR be amended to recognize a specific quantity of reduced avian mortality, expressed in part in Exhibit A to its letter, as a result of reduced greenhouse gases, inhalable particulate matter and other unspecified pollutants that the AWI turbines would offset or avoid, estimated at 337 birds per year (O4-21). Suggested text citing the McCubbin and Sovacool report *Health, Wildlife and Climate Benefits of the 580 MW Altamont Wind Farm* (provided to the County but marked *confidential*) was included in the letter (O4-21). The County considers these particular remarks to concern the project decision instead of the DEIR analysis itself.

Several additional comments addressed specific mitigation measures identified in the DEIR to avoid significant impacts on terrestrial species due to decommissioning activities, stating that they are unnecessary, and that mitigation measure BIO-1, for general protection measures (a bullet list of 17 different precautions for construction and grading activities), would suffice entirely for all decommissioning activities (O4-26, -27). Other aspects of the project that AWI wished to highlight were that the project would provide a net benefit to the environment of restoring grassland in former turbine site areas (O4-22, -23), that decommissioning would occur on previously- and heavily-disturbed land (O4-24), and the project is an ‘end-of-project-life endeavor’ with no means of generating income for costly mitigation measures (O4-25).

Another group of comments by AWI state that, for specific reasons, there would be no adverse noise impacts, but only less than significant impacts, and that no noise mitigation is required (O4-27). In addition, the identified noise mitigation is not required and noise issues are already sufficiently managed by existing practices (O4-28). The remainder of the AWI comments address the alternatives assessment in the DEIR, but for the most part concern clarifications and issues raised elsewhere in the comment letter (O4-31 to -34). However, the AWI letter states that the analysis of Alternatives, based on the air quality analysis, should conclude that Alternative 1 has less overall impact than the No Project Alternative (O4-35).

*Other Comments:* Various other comments submitted with regard to the DEIR were also more general and applied to the project decision. The Livermore Area Recreation and Park District indicated its opposition to cessation of the WSSD and supported selection of Alternative 1 while opposing the other alternatives (A2-2). The Contra Costa Water District was concerned that conditions should be provided to ensure that it be notified in the event access to its conservation property in Alameda County was provided (A3-2). The Ohlone Audubon Society comments cited the consensus comments of the SRC, and urged retention of the WSSD, and that year-round operations would compromise ongoing studies regarding repowering (O2-3).

Individual comments by the members of the SRC ranged from requests for clarification of the methodology used or other DEIR content (I1-1, -4; I2-1, -3, -4; I4-1 to -7), to additional recommendations for removal of high-risk Hazardous Risk Turbines (HRTs) (I1-3, I2-, I5-4, ), additional off-site mitigation measures including those suggested by the USFWS in its BGEPA *Draft Guidance* (I1-5, I2-5), additional details on the life history, status and distribution of special-status species in the APWRA (I2-7), and modifications to specific mitigation measures (I3-1 to -5).

Two area residents (on Dyer Road) also submitted comments on the DEIR but which are considered to be addressed to the merits of the project rather than the analysis in the DEIR, including a view that there is no compelling need to eliminate the WSSD (Alan Ragsdale, I6-1), and that assurance of AWI's ability to fund removal of the turbines and infrastructure could be compromised by elimination of the phased removals (I6-2). Another comment was that turbine housings (or covers) removed or missing from some of the turbines results in greater noise and aesthetic effects and do not warrant a favorable approval of the modified CUPs (I6-3). Robert Cooper submitted a letter with a table listing the periods between April of 2013 and September 2018 in which the 828 turbines would be operated and phased out under No Project or baseline conditions (using "windmill-months" of one month per single turbine), with a result indicating approximately 50 percent more operational months than currently permitted, which he projected onto avian mortality and predicted a proportionally 50 percent increase in avian mortality, or more, due to proposed operations during the WSSD (I7-1, -2). His letter also describes an incident with a golden eagle near Dyer Road in which the eagle was euthanized (I7-3). In summary, Mr. Cooper stated that "AWI's DEIR should be rejected!" (I7-4) – a comment which appears to indicate an incorrect belief that the DEIR is the proposed project, when in fact the DEIR is the CEQA-based evaluation of the proposal. The County interprets the comment to mean the proposal should be rejected by the County. A closing comment is that cement foundations of previously-removed turbines should also be removed as part of turbine decommissioning (I7-5).

At the public hearing on the Draft EIR on March 28, 2013, several individuals spoke, but almost all of them also submitted written comments which have been described above. There was naturally some deviation in the finer points made in the hearing compared to the written comments. Only one unaffiliated person spoke who did not also submit a comment letter, Nanette Leuschel,<sup>3</sup> who began by asking how the proposed continued operation of the existing turbines could increase avian mortality, given that the County has determined that the target 50 percent reduction in avian mortality has been reached using the adaptive management plan (PH27). She also noted that project benefits are not inappropriate to include in an EIR (PH27). Along with avian mortality, she wished to give equal time to the benefits of reducing greenhouse gas emissions (GHGs), and asked to have the DEIR expanded to explain why, although Alternative 3 would result in the greatest offset of GHGs the DEIR identifies Alternative 1 as the environmentally superior alternative; however, she also indicated that the conclusion was presumably based on avian deaths as the most critical issue rather than GHGs (PH8 {or PH28}). Two other persons spoke who did not submit letters, but they were both affiliated with AWI (William Damon, Vice President, and Mary Lim, Counsel).

Responses to the above comments that pertained directly to the analysis in the Draft EIR are provided in the Final EIR (Chapter 3). Comments that addressed the merits of the project and its alternatives have been considered in the Planning Considerations below to a limited, general degree.

Public Review, Notices and Hearings: The Notice of Preparation (NOP) for the DEIR for the proposed project on May 31, 2012, which was circulated to interested parties, who in turn submitted comments on the scope of the EIR. The Draft EIR was completed and began circulating for public comment on March

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<sup>3</sup> Ms. Leuschel's last name was misspelled in the semi-transcript made of the hearing. Her second comment (regarding climate change) was also mislabeled as PH-8 when it should have been PH-28.

6, 2013 and a Notice of Availability for the Draft EIR was widely circulated. The notification process is also described in the prior staff report and in the DEIR.

The FEIR was published on July 5, 2013, and was provided to all those who submitted comments on the DEIR, as well as to the state for circulation to interested agencies, thus providing for the required minimum ten day review period prior to any action on the proposed project. The FEIR was also provided on the County's website (<http://www.acgov.org/cda/planning/landuseprojects/windturbineproject.htm>) and made available for review at the Planning Department's offices in Hayward, the Livermore Public Library, and on a limited basis at the Planning office in Livermore. A notice of its availability and of the current hearing was also mailed to all of the interested parties and agencies.

## PLANNING CONSIDERATIONS

The application is being sought under the Alameda County Zoning Ordinance procedures (17.54.150) that state that: "the board of zoning adjustments shall receive, hear and decide applications to renew or extend the term of a conditional use or to *modify or waive any condition previously imposed upon a conditional use...*" (emphasis added). On this basis, the permittee AWI is effectively entitled to apply for any change to the use permit conditions that are now in place, and it has asked to amend Exhibit G-2 of Resolution R-2007-111 (Condition No. 7) by: a) eliminating the WSSD requirement ; b) eliminating the requirement to cease operation of 25 percent of their individually-owned turbines (230 turbines, based on the original count of 920 turbines in 2005) by September 30, 2013; c) *replacing* the requirement to cease operation of another 50 percent of their turbines (460 turbines) by September 30, 2015 (leaving 138 turbines to remain through September 30, 2018), with a requirement to cease operation of 100 percent of the turbines (all 828 turbines) by December 31, 2015; and d) adding a requirement that the County consider the human health, wildlife and climate benefits of wind power generated in the APWRA when making regulatory and use permit decisions.

The original approval of the CUPs in 2005 by the Board of Supervisors' Resolution R-2005-453 required that the permittee sponsor the preparation of an EIR to address the environmental impacts of the repowering program and the continued operation of existing turbine facilities (and progressive removal under the repowering program). While the focus of the required EIR was to be on repowering and to serve as a program EIR for all of the APWRA wind energy operators, AWI does not consider (or did not at the time of its request to modify the CUPs in 2011) it to be in a position to propose repowering for the foreseeable future, due to market conditions, tax policies, and the status of power purchase agreements and property leases, and cannot or could not presently make a repowering proposal. However, for the continued operation of its turbines in the APWRA, AWI is required by the CUPs to sponsor an EIR, and secondly, its proposed changes to the conditions were deemed by the County Planning Department to have the potential for adverse environmental impacts, over and above the baseline of existing conditions and CUP requirements.

The proposed elimination of the WSSD is based on AWI's views, as expressed in comments on the Draft EIR, that the benefit of the WSSD is exaggerated and of less value than held by the SRC or the County as identified in the DEIR, because some raw data from the Monitoring Team indicate continued avian mortality during the winter in spite of the WSSD, and high levels for some identified species (burrowing owl, in particular, from predation by other species). Secondly, AWI holds the view that due to reports it has had prepared (by McCubbin and Sovacool) that its wind energy production offsets or serves to avoid the particulate matter and other pollutants normally produced by gas- and coal-fired power plants, and which directly harm avian and terrestrial wildlife including protected avian species. It is for this reason that AWI also seeks the fourth change to the CUPs listed above, to "consider the human health, wildlife and climate benefits of wind power" in its decisions regarding the CUPs.

However, County Planning staff in its independent assessment and in the Draft and Final EIR documents do not find this view to be supported by evidence. While the County agrees with the general principle as discussed in the cited McCubbin and Sovacool report (*Health, Wildlife and Climate Benefits of the 580 MW Altamont Wind Farm*) that birds and wildlife would benefit from offsets or reductions in particulate matter and other pollutants normally generated by coal or gas-fired power plants, the scientific community and the County do not support the specific suggestion of applying a relatively small effect (the amount of offsets) on a very large, regional or even global environment (the atmosphere) back to a relatively small and well-documented local condition (the striking of protected avian species by wind turbine blades). For a relevant analogy, while off-site mitigation measures identified in the DEIR to reduce golden eagle mortality would benefit the regional golden eagle population, the mitigation itself was modified in the Final EIR to be limited to a more localized area (a 30-kilometer radius instead of a 140-mile (88 km) radius as used by the USFWS), but the impact on golden eagles of wind turbine blade strikes is still considered to be significant and unavoidable.

Therefore the Alameda County Planning Department staff does not recommend approval of the first requested change to eliminate the winter seasonal shutdown. Additionally, and for similar reasons, the conditions of approval are not recommended to include the proposed requirement that the County consider human health, wildlife and climate benefits of wind power generated in the APWRA when making its regulatory and use permit decisions. Such considerations are or may be included in such decisions as a matter of policy, such as a guideline in a general plan document but are not suited to be a condition of approval, and in any case, do not apply to the permittee. The conditions of approval (or as in this case, requirements of the Avian Wildlife Protection Program & Schedule) are meant to apply to the permittee, not the County.

Regarding the second and third changes, to the phasing of shutdowns or decommissioning, wherein AWI requests to continue operating all 828 of its turbines through 2015 (October 31, 2015, with retention of the WSSD), instead of permanently shutting down 230 of those turbines after September 30, 2013 and then shutting down the remaining 598 turbines in two stages (460 turbines in 2015 and the remaining 138 in 2018), the County Planning Department staff find there are several good reasons to favorably consider approving those changes. These two changes are considered as one single interconnected modification. In broad terms, this request by AWI is intended to bring its turbine operations to an end in 2015, which would generally be in line or consistent with the timeline by which the other wind energy companies in the APWRA have committed to have removed their old generation turbines. Although the removal of those companies' turbines is directly linked to repowering their assets, and AWI does not currently have a repowering program, the permanent shutdown of all old generation turbines by the end of 2015 and removal in 2016 will inevitably favor faster repowering. Additionally, AWI has clearly signaled its intent to repower its assets by requesting the DEIR be amended in its cumulative impact assessment to include its Summit Wind Project as among the anticipated future projects in the APWRA.

There is widespread agreement among all the interested parties that repowering the APWRA will best serve the primary objectives of the CUPs for reducing and minimizing the adverse effects of the turbines on avian mortality. Repowering will also have many other benefits, including efficient, year round operation by the companies with greater efficiency in producing renewable energy, and quieter new equipment. Several comments received on the Draft EIR but which are instead recognized as comments on the merits of the proposed changes to the decommissioning schedule contained contradictory recommendations to permanently shut down all of AWI's turbines as soon as possible in order to enable repowering, while also recommending retention of the current phased decommissioning schedule that would retain 138 old generation turbines through September of 2018. This view also shares a perspective among some who oppose the project and any of the alternatives that the changes to the phased decommissioning would complicate the monitoring program; there is no tangible evidence of how the currently scheduled permanent shutdown of 230 turbines in September of 2013, and the retention of 138 turbines

beyond 2015 would in any way serve the interests of monitoring. This view also suggests it is expected that AWI would agree to *both* shut down the 230 turbines in September 2013 and *also* shut down all remaining 598 turbines after 2015.

Therefore, in order to promote repowering, and as incentive for AWI to continue cooperating with the County, the SRC, the monitoring team and with the applicable local, state and federal resource agencies, the County Planning Department staff recommend that the project application for changes to the decommissioning schedule be approved, and that together with the continued winter seasonal shutdown, the overall project be approved with the mitigation measures identified in the Draft EIR, and as modified in limited ways in the Final EIR. This recommendation is also equivalent to the selection of Alternative 1 as presented in the Draft and Final EIR. Planning Department staff, based on its own separate analysis and the substantial analysis of the project and its alternatives in the Draft and Final EIR documents, consider the trade-off, of eliminating the operation of 138 turbines between February 15, 2016 and September 30, 2018 – a 2½-year period (or 31½ months, including the WSSD), while operating an additional 230 turbines between September 30, 2013 and October 31, 2015 – a year and a half (18 months also with the WSSD), to be a reasonable request to the East County Board of Zoning Adjustments.

An internal Planning staff analysis comparing the highest rates of mortality for the four focal raptor species (i.e., worst-case or most conservative rates) between the existing decommissioning schedule through 2018 and the proposed project ending in 2015 indicates a net increase of approximately eight (8) total focal raptor species birds killed under project conditions compared to baseline conditions through the end of each alternative lifetime (i.e., 2015 or 2018). A similar comparison in the Draft EIR in Table 3.2-5 (page 3.2-31) compares the project, with and without the WSSD, with the baseline or No Project conditions, with a result of 21.3 total additional focal raptor species fatalities (adding the counts in the last column for the four species). The higher figure (21.3) compared to the lower estimate (8) is due to the lower rates assumed for baseline conditions, with turbines assumed to be shut down beginning several months earlier than required. The Final EIR provides a supplemental table (page 3-21) that shows higher fatality rates for No Project conditions with a “modified decommissioning schedule” that assumes continued operation of turbines until they are required to be shut down. As stated in Response to Comment O4-13, “This increase in installed capacity [as a result of maximum deferred decommissioning] would in turn increase the estimated avian fatalities associated with the No Project Alternative.” (page 3-19 in the Final EIR). While the County certainly considers every bird fatality to be significant and preferably avoided, it is also the case that prolonging the operation of AWI’s turbines, even just 15 percent (138) of their original power plant for an additional 2½ years would be disadvantageous to repowering that is expected to occur on the same properties and would in fact complicate monitoring efforts in those later years. Repowering itself would be achieved more quickly and efficiently on the whole were there to be comprehensive removals of the old generation turbines completed in 2016.

Lastly, there are certain conditions of approval that could be continued from the prior CUPs that would further reduce avian mortality, presumably to the point at which there could be a net *decrease* in avian mortality, especially for the four focal raptor species. Exhibit G-2 of Resolution R-2007-111 required AWI to have removed by September 30 of 2009, all of its Tier 1- and Tier 2-rated hazardous turbines, as defined in research completed prior to 2005; however, by September of 2009, the SRC and the County had redefined the means of categorizing the turbine sites for hazards to birds from the Tier system to a risk rating system known as the HRT ranking system, in which turbines were ranked from 1 to 10, and included ‘half step’ rankings (e.g., 8.5, 9.5). The monitoring consultants have determined that AWI is presently operating a total of 68 turbines ranked from 8.5 to 10, including 14 turbines ranked 9.5 and 10. With removal of 17 of the highest risk HRT turbines, the analysis indicates that the net number of focal species that would be projected to be killed over the lifetime of the project (again, with the WSSD) would be *lower* than with the No Project conditions. Such a requirement would be in addition to the other requirements of the mitigation measures set forth in the Draft and Final EIR.

Exhibit G-2 also established requirements for review of the CUPs in their third and eighth years, the latter to occur by September 30, 2013. The required review is intended to be based on continued monitoring by the County consultant and input from the SRC, and authorizes the County to review the Permits and hold a public hearing, to consider “the effectiveness of the components of the [Avian Wildlife Protection] Program [& Schedule] and consideration of other strategies to be added to the conditions of approval for the pre-existing turbines for the remaining years of the Permit. This provides the County with the authority to consider requiring the removal of higher risk HRT-ranked turbines. Some of the comments received on the Draft EIR, including two SRC members, recommended such removals as an additional measure to reduce avian mortality. As discussed in the Final EIR (Response to Comment I2-3, page 3-29), the removal of HRT-rated turbines has not been effectively quantified to the same degree that the WSSD has been, and therefore it was not identified as a mitigation measure.

Draft Resolutions. To approve the project as recommended by the County Planning Department staff, two separate Draft Resolutions have been prepared. The first Resolution enables the East County Board of Zoning Adjustments to certify the Final EIR, and includes findings regarding the significant impacts of the project, required changes to the project or mitigation measures that will avoid or substantially lessen its significant effects, and the adoption of a Mitigation Monitoring and Reporting Program (MMRP). The Resolution also contains a statement of overriding considerations pursuant to Section 15093 of the CEQA Guidelines, to state why the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh its unavoidable adverse environmental effects. The second Draft Resolution contains general findings required for approval of the Conditional Use Permit modifications, and cites the first Resolution as providing the basis for the County’s compliance with CEQA. The Draft Resolution includes conditions of approval, including minor modifications to Exhibit G-2.

Recommendation: That the East County Board of Zoning Adjustments take public comment on the proposal, review the Final Environmental Impact Report, the Mitigation Monitoring and Reporting Program (MMRP), other attachments including two draft Resolutions, then certify the Final EIR by adoption of the first Resolution and approve the project, as mitigated (the project plus wintertime seasonal shutdown) by adoption of the second Resolution and proposed draft conditions.

## **ATTACHMENTS**

Draft Resolution to Certify the Final Environmental Impact Report

- A. Written Findings of Significant Effects
- B. Statement of Overriding Considerations
- C. Mitigation Monitoring and Reporting Program

Draft Resolution to Approve PLN2011-00102, Conditional Use Permit Modifications

Graphic Attachments

SRC Member Responses to Questions from EBZA Member Gosselin

Staff Planner: Andrew Young, Planner III

Reviewed By: Sandra Rivera, Assistant Planning Director

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