



**ALAMEDA COUNTY CDA
PLANNING DEPARTMENT**

**PUBLIC COMMENT HEARING ON A DRAFT SUPPLEMENTAL
ENVIRONMENTAL IMPACT REPORT**

**TO: EAST COUNTY BOARD OF ZONING ADJUSTMENTS
HEARING DATE: DECEMBER 18, 2014**

GENERAL INFORMATION

**APPLICATION: MODIFICATIONS TO 16 EXISTING CONDITIONAL USE PERMITS
(APPROVED YEAR 2005, AS MODIFIED IN 2013), PLN2014-00028**

APPLICANT: ALTAMONT WINDS, INC.

REQUEST: To extend 16 conditional use permits, which are set to expire on October 31, 2015 under modifications approved in July 2013, for three (3) years, through October 31, 2018, under specified conditions, for operation of an estimated 828 existing utility-scale wind turbines with a combined existing (current) generation capacity of 85.8 megawatts (MW). The application could also apply to two additional CUPs for an estimate 300 turbines that may be acquired by the applicant in an asset exchange.

LOCATION, SPECIFIC PERMITS, OPERATORS, PROPERTY OWNERS AND PARCEL NUMBERS: The existing turbines are located throughout the approximately 14,436-acre Alameda County portion of the Altamont Pass Wind Resource Area (APWRA), in the eastern portion of Alameda County, bisected by Interstate I-580, on up to 58 parcels bearing 58 separate Assessor's Parcel Numbers.

Conditional Use Permit Numbers, Facility Permittee/Land Owner family names and 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-7925-001-03, 99B-7925-001-04, 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/ 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/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-6100-003-13;

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.

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

Two additional CUPs, C-8231 and C-8239 (landowners Waste Management Inc. and Jackson, respectively), apply to turbines proposed to be acquired by AWI or its affiliates in a proposed asset exchange, and would contain turbines subject to the proposed modifications.

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: A Draft Supplemental Environmental Impact Report (DSEIR) has been prepared to evaluate the potential environmental impacts of the application to extend for three years the existing CUPs, and which is “tiered” from an EIR that was certified by the EBZA on July 18, 2013 for modifications approved on the same date, to allow full operation of the 828 existing turbines through October 31, 2015. The prior EIR addressed continuing operations of the turbines and decommissioning activities (i.e., removal of old turbines for repowering). The DSEIR began circulating for the purpose of public and agency comment on November 17, 2014. The comment period will end on January 2, 2015, after which a Final SEIR will be prepared, comprising both the Draft SEIR and a Response to Comments document.

RECOMMENDATIONS:

That the East County Board of Zoning Adjustments take public comment on the Draft Supplemental Environmental Impact Report.

PERTINENT FACTS:

Physical Features: The subject CUPs are widely distributed across the Alameda County portion of the Altamont Pass Wind Resource Area (APWRA). The project location containing AWI's existing wind turbines falls within an approximately 14,196-acre portion of the 50,000-acre APWRA. The APWRA 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: The 16 subject CUPs were initially approved by the EBZA in November 2003 and January 2004 with conditions, as the continued operation of existing wind farm facilities, including turbines and infrastructure. These permits, along with 13 other CUPs approved on those dates, were approved with a determination that they were categorically exempt from CEQA as the continued operation of existing facilities; the approvals were subsequently appealed by the Center for Biological Diversity, Californians for Renewable Energy, and Golden Gate Audubon Society for resolution by the County Board of Supervisors, primarily on the grounds that the CUPs were not exempt from CEQA, due to special circumstances represented by high levels of avian mortality. The Board of Supervisors acted on September 22, 2005 to uphold the EBZA's approval, but imposed a number of operational restrictions on wind farm operations, including the progressive or phased shutdown and removal of specified percentages of turbines, in order to enable repowering of their wind energy assets (i.e., replacement of the older turbines, installed in the 1980s and 1990s with current generation, much larger turbines). Other key requirements included a winter seasonal shutdown during peak avian migration through the APWRA, the establishment of a Scientific Review Committee, and requirements for the preparation of an EIR to address both continuing operations through the end of the permit term in 2018 and repowering of the APWRA. It should be noted, however, that the 16 CUPs applied originally to a total of over 2,600 turbines, including 920 that were "beneficially owned" by AWI, and the remainder by other operators. All but 4 of the 16 permits are 'held' by Altamont Infrastructure Co. (AIC), which is a service company that does not own but instead only manages turbines under a compact among the different wind companies.

The first phase of decommissioning took place in 2009, at which time AWI was required to remove 10 percent of its 920 turbines. An additional 25 percent of the original 920 turbines (for a cumulative total of 35 percent) were to be permanently removed by September 30, 2013, followed by 50 percent of the original turbine number (for a cumulative total of 85 percent) by September 30, 2015, and the remaining 15 percent of turbines by September 30, 2018. In July 2011, AWI applied to the County CDA to modify the 2005 CUPs to:

1. Remove the requirement for phased decommissioning.
2. Remove winter seasonal shutdown requirements.
3. Provide for 100 percent of AWI's turbines be decommissioned by the end of 2015.

The 2013 FEIR was prepared to evaluate the environmental effects of such modifications and to identify mitigation measures to reduce any significant environmental effects identified. It also met the 2005 CUP requirement that an EIR be prepared to evaluate existing operations and phased decommissioning, and identified numerous mitigation measures to reduce and avoid the impacts of turbine removal in advance of repowering, although no specific repowering project had been proposed at that time.

PROJECT DESCRIPTION

The current project proposal is a request to modify 16 existing Conditional Use Permits (CUPs), approved in 2005 and modified in July 2013 (application PLN2011-00102), for continued operation of the wind farm assets of Altamont Winds, Inc. (AWI), now comprised of 828 wind turbines with a rated capacity of 85.8 MW. Specifically, AWI's request would provide for the wind farm turbines to continue operating through October 2018, as a change from the current expiration of the CUPs on October 31, 2015. While the CUPs as approved in 2005 provided for operations through September 2018, they also required phased shutdown and removal, with a combined 35 percent of all turbines removed by September 2013 and an additional 50 percent removed by September 2015, so that only 15 percent of the original number of turbines would be operating between 2015 and 2018. The modifications approved in 2013 in effect exchanged the phased shutdown requirement for a complete shutdown in October of 2015, in order to initiate repowering of its wind farm assets in 2016.

The Applicant, AWI, contends that its progress in developing a repowering program for its turbines is constrained by ongoing commercial and regulatory difficulties, and that the CUP modifications allowing it to operate through 2018 are necessary in the event that circumstances beyond AWI's control prevent it from initiating repowering in 2015 or in a financially feasible manner after the current CUPs expire in 2015. AWI proposes to operate through 2018 only on the condition that it has diligently pursued repowering of its wind farm assets, and can demonstrate that circumstances beyond AWI's control have delayed completion of the repowered project. Conditions of approval would require an annual review to document AWI's efforts to repower its assets.

Asset Exchange. Concurrently with the request for an extension through 2018, AWI is in discussions with another wind farm operator, Green Ridge Power LLC (an operating entity of NextEra Energy Resources, aka NEER), for an exchange of wind turbine assets. Specifically, approximately 300 wind turbines currently owned by AWI south of I-580 would be acquired by Green Ridge and an equal number of wind turbines would be acquired by AWI north of I-580, currently operating under CUPs C-8231 and C-8239, so that the permit modifications would apply to a total of 18 existing CUPs, if the asset exchange occurs. As proposed, and under assurances from both companies, such an exchange will not increase the capacity or quantity of AWI's operating turbines. Green Ridge will shut down and remove the turbines it will acquire, for the purpose of repowering.

The asset exchange is recognized in the Draft SEIR and certain aspects of it are discussed, such as that it would result in a decrease of roughly 1.7 MW in AWI's rated annual capacity, and that it would result in a moderate reduction in the number of operating high-risk turbines (HRT) turbines, specifically those rated 8.5 to 10.0 for their relative risk of striking birds.

HEARING FOR COMMENTS ON THE DRAFT EIR

EIR Summary: The Draft Supplemental EIR (DSEIR) has been prepared as a supplement to the 2013 EIR, which was certified in July 2013 as a complete assessment of the environmental impacts of AWI's existing operations. The 2013 EIR provided a comprehensive identification of the environmental impacts of AWI's operation through 2015, as well as the air quality and noise effects of decommissioning activities (i.e., construction-related effects). The DSEIR is not intended to re-evaluate the assessment of those impacts, but is only meant to evaluate the additional environmental effects attributable to the additional three years of operations proposed by AWI (2015 through 2018), which are limited almost exclusively to biological resources and in particular, avian mortality.

Although the 2013 FEIR evaluated the alternative of continuing operations until October 31, 2018, that alternative was rejected by the EBZA due to the additional number of avian fatalities. The EBZA, on

recommendation from Planning staff, determined that the environmentally superior project, other than the No Project alternative, was Alternative 1, which was the project then proposed, but with winter season shutdowns continuing through each year of operations, through 2015. The County determined that the level of analysis provided in the 2013 EIR of AWI's operations through 2018 (Alternative 3) was not sufficient to make the required findings for the purpose of CEQA, and therefore determined that the current proposal required the preparation of a Supplemental EIR.

In accordance with CEQA Guidelines Sections 15162 and 15163, a Supplemental EIR may augment an EIR prepared for an existing project to address any project changes, new information of substantial importance that was not known or could have been known without the exercise of reasonable diligence or changed circumstances occurring since the time the prior document was certified. In the case of changes to a previously approved project, as is the case here, the purpose of an SEIR is to provide only the additional analysis necessary to make the previous EIR adequately apply to the project as modified.

As with the 2013 EIR, the analysis quantifies effects on the four focal raptor species that were the subject of the 2007 Settlement Agreement, including golden eagle, red-tailed hawk, burrowing owl and American kestrel, as well as all bird species known to inhabit the APWRA. The DSEIR used the same method as the 2013 EIR to quantify the relative, projected number of bird deaths in the years 2013 to 2018, which was the range of years used in the 2013 EIR to show avian mortality impacts and changes due to that proposal, between the baseline (no project) conditions (with phased shutdown and decommissioning between 2013 and 2018) and complete shutdown in 2015.

An Executive Summary in the DSEIR includes Table ES-4, that briefly summarizes the impacts that were identified, and also identified topic areas that were excluded from the analysis as not relevant or applicable to the site location or nature of the project. The Draft SEIR's analysis of Project impacts determined that one environmental impact on biological resources would be significant and unavoidable:

- Impact BIO-1: Potential to cause a substantial adverse effect, either directly or through habitat modifications, on special-status avian species.

The DSEIR identifies three distinct mitigation measures to address the impact, two of which were previously included in the 2013 EIR, namely continuing the winter seasonal shutdown (Mitigation Measure 16), and retrofitting electrical power poles (Mitigation Measure 17). To further mitigate and compensate for the projected level of avian mortality resulting from the proposed CUPs extension, the DSEIR identified Mitigation Measure "BIO-17a", as a suite of optional measures to compensate for the loss of special-status avian species, including golden eagles, by contributing to conservation efforts. This measure is adopted almost verbatim and directly from the *Program EIR* for the *Altamont Pass Wind Resource Area Repowering* that was certified in November, 2014, and includes measures that may be outlined in a programmatic eagle take permit, contributing to raptor recovery activities, raptor conservation, and regional raptor habitat conservation efforts. Such measures would be based on a Resource Equivalency Analysis (REA) or similar type of compensation assessment. The DSEIR indicates that the result of these mitigation measures would reduce the impact on avian species, but that they would not eliminate the effects or reduce it to a level that is less than significant, and the impacts would remain significant and unavoidable.

In response to a specific comment in response to the Notice of Preparation from a resident on Dyer Road, regarding the appearance of oil or other lubricants being released from leaking turbine generators or other equipment, including along the turbine blades, the DSEIR also provides supplemental information on the potential of a significant leak of hazardous materials into the environment. A soil sample from near a transformer was analyzed by a specialist lab, and its report was included in the DSEIR. Staining on the wind turbine blades was determined to be rust and mineral deposits released from the turbine hub, and is

not a hazardous material. The DSEIR also reported that the turbines are regularly monitored and maintained by the operator to prevent any release of hazardous materials, with annual maintenance of turbines and rotor blades. The DSEIR determined that the impacts were less than significant and did not warrant the requirement for any mitigation measures.

Public Review, Notices and Hearings: The California Environmental Quality Act (CEQA) does not require formal hearings at any stage of the environmental review process (State CEQA Guidelines Section 15202(a)); however, it does encourage “wide public involvement, formal and informal...in order to receive and evaluate public reactions to environmental issues” (State CEQA Guidelines Section 15201) and requires the lead agency to provide the public with the opportunity to provide comments. The County, as lead agency, circulated a Notice of Preparation (NOP) of the DSEIR (SCH # 2014092057) for the proposed CUP extensions on September 15 2014. The NOP was distributed for a 30-day comment period through October 15, 2014. Comment letters received on the NOP were considered in the preparation of the EIR. Appendix A of the DSEIR contains the NOP, written comments received on the NOP (one letter, from the California State Attorney General, was inadvertently left out of the Appendix and is attached to this staff report, along with a response to the letter from the applicant, AWI).

Comments on the DSEIR received during the 45-day public review period will be considered in the preparation of a Final SEIR. The public review period began on November 17, 2014 and will end on January 2, 2015 at 5:00 p.m. Within that 45-day period, the County will hold one public hearing to request verbal comments on the DSEIR, which is the subject of the current hearing.

The DSEIR was made available for review during normal business hours at the Planning Department offices in Hayward and the Livermore Public Library on South Livermore Avenue in Livermore during its regular hours. The DSEIR was also made available for viewing or downloading at the Alameda County website: <http://www.acgov.org/cda/planning/landuseprojects/awipermit-pln2014-28.htm>. The Notice of Availability (NOA) of the DSEIR was mailed to all of the interested parties and agencies.

The item is currently scheduled to be heard on January 22, 2015, for consideration of the Final SEIR, a Staff Report, attachments and draft Resolution. The draft Resolution will provide a mechanism to convey applicable conditions to the asset-exchanged turbines.

Recommendation: That the East County Board of Zoning Adjustments take public comment on the Draft Supplemental Environmental Impact Report.

Staff Planner: Andrew Young, Planner III
Reviewed By: Sandra Rivera, Assistant Planning Director

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