



**ALAMEDA COUNTY CDA  
PLANNING DEPARTMENT**

**PUBLIC MEETING FOR COMMENT ON THE DRAFT  
ENVIRONMENTAL IMPACT REPORT**

**TO: EAST COUNTY BOARD OF ZONING ADJUSTMENTS  
HEARING DATE: MARCH 28, 2013**

**GENERAL INFORMATION**

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

**OWNER/ APPLICANT: ALTAMONT WINDS, 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 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;

**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:** Alameda County Board of Supervisors’ Resolution R-2005-453, adopted September 22, 2005, made findings that the use permits were Categorically exempt (Class 1) from the California Environmental Quality Act (CEQA), but required as a condition of approval that an environmental impact report (EIR) be prepared to evaluate both a repowering (or modernization) program and continuing operations of the turbines and their progressive removal for repowering. A Draft EIR has been prepared and will circulate for the purpose of public and agency comment until April 19, 2013, after which a Final EIR will be prepared, comprising both the Draft EIR and a Response to Comments document.

**RECOMMENDATIONS:**

That the East County Board of Zoning Adjustments take public comment on the Draft Environmental Impact Report, and continue the item to a date to be determined, tentatively scheduled for June 27, 2013, for consideration of the Final EIR, a Staff Report, attachments and draft Resolution.

## **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: Conditional Use Permits were first approved for privately-owned wind farms (or wind energy production facilities) in the APWRA by Alameda County between 1981 and 1993. The APWRA had been designated by the State of California in the late 1970s as a wind resource area, encompassing an area of approximately 50,000 acres. By the mid-1990s the APWRA was the largest windfarm region in the world, with over 7,200 operating wind turbines. Many of the windfarms overlapped, with separate permits issued to different wind energy facility operating companies on a single parcel of land. Various turbine designs by different manufacturers were used, with maximum production capacity of most individual turbines ranging from 40 to 150 kW (kilowatts). A small proportion of turbines were built with larger capacities of up to 400 kW.

Due to research and investigations started in the mid-1980s, indicating that birds were colliding with wind turbine blades, and that many of the birds killed were federally-protected raptor species, including Golden Eagle, Red-Tailed Hawk, Burrowing Owl, and American Kestrel. Many studies investigated the causal relationship between turbine facilities and avian mortality, and several recommendations emerged for siting future turbines, managing existing facilities and removing individual turbines that have certain siting and physical features that result in higher than predicted avian mortality. Also since the 1990s, interest rose in replacing the APWRA turbines, especially the older and smaller turbines of 100 to 150 kW capacity, with larger, more efficient turbines that have been manufactured at increasingly large scales – recently up to 3 MW (i.e., 3,000 kW) or larger. In 1998, Alameda and Contra Costa Counties approved a “Repowering” program which established protocols for replacing many older, smaller turbines with fewer larger, more productive turbines that would both maintain energy production and reduce avian mortality. However, for various reasons, only one repowering project was completed in the Alameda County portion of the APWRA, initiated in 2003. Contra Costa County recently completed repowering of most of its 80s-era turbines.

Permit Extensions, 2001-2006: Starting in 2001, the permits that had been granted during the 1980s, typically for 20-year periods, began to expire and in 2003 the County sought to have all of the CUPs renewed jointly with a common set of conditions and to distinguish each CUP by its property ownership. In November of 2003 and January of 2004, a total of 29 CUPs held by five different companies were approved by the East County Board of Zoning Adjustments, initially for open, unending terms, and generally exempt from CEQA as existing facilities that were not being expanded. The second group of CUPs, approved in 2004, were limited to a term of 20 years, but with no other substantive changes. It should be noted that the CUPs were issued, for the original 1980s and 90s permits and for the permit extensions according to the property owners, and not to turbine operators or owners, with the result that many parcels throughout the APWRA contain turbines owned by two or three different companies.

These approvals were subsequently appealed by environmental advocacy organizations, including Californians for Renewable Energy (CARE), the Center for Biological Diversity (CBD), and the Golden

Gate Audubon Society (GGAS), primarily on the grounds that due to extraordinary circumstances of high avian and raptor species mortality, the permit extensions were not exempt from CEQA, and further that the permits did not adequately provide for conservation of species. After four hearings on the appeal in 2004 and 2005, the County Board of Supervisors adopted Resolution R-2005-453 on September 22, 2005 to deny in part and in part grant the appeals. In granting the appeal, the Resolution approved 29 CUPs subject to 27 conditions of approval, and for a period of 13 years only, through September 2018. Two more CUPs, including one AWI permit, were approved in January 2006 by the East BZA (Resolutions Z-06-03 and Z-06-04) with the same conditions as provided for by the Board of Supervisors, and also with expiration at the same time in 2018.

Conditions of the permit extensions included the institution of a Scientific Review Committee (SRC), hiring of County consultants to monitor avian injuries and deaths, preparation of an Environmental Impact Report (EIR) pursuant to CEQA for the repowering program and the phased removal of turbines, and establishing an Avian Wildlife Protection Program and Schedule (AWPPS) with various measures aimed toward reduction in avian mortality, and specifically requiring removal of a set percentage of turbines in advance of repowering by the end of the 13-year period.

Among the more prominent requirements of the Program and Schedule was the Wintertime Seasonal Shutdown (WSSD), to cease turbine operations in the winter months due to indications from research conducted over several years that shutting down the wind turbines during the wintertime peak avian migration period would reduce avian mortality rates. The WSSD as established in the Resolution was as a “crossover” research program of ceasing operation of half the turbines during the first half of the winter, switching to the suspended operation of the opposite half of the turbines in the second half of the winter. Under the direction of the SRC the WSSD was modified to require complete shutdown of the turbines operating under these CUPs between November 1 and February 15 of each year. In addition to the WSSD, the Program and Schedule required permanent removal for the purpose of repowering, 10% of the existing turbines by September 30, 2009, an additional 25% by September 30, 2013 (for a cumulative total of 35%), an additional 50% of the original turbines by September 30, 2015 (i.e., 85% of all turbines), and the remaining 15% of turbines by September 30, 2018. For AWI, which owned 920 turbines as of 2005, this represented removal of 92 turbines in 2009, 230 more turbines by September 2013 (322 turbines in total), 460 more in 2015 (for a total of 782), and the remaining 15% (138 turbines) by September of 2018. Although the AWPPS included many other requirements, it is the WSSD and the phased removal or decommissioning of turbines that is the subject of the request for modifications of the CUPs by AWI.

## **PROJECT DESCRIPTION**

AWI applied to Alameda County in July 2011 to modify its CUPs, specifically related to changing the operational and decommissioning schedules for its 828 existing wind turbines, which have a nameplate generating capacity of 85.8 MW. The AWI application requests elimination of the existing CUP requirements approved in September 2005 (under Exhibit G, the AWPPS) that it remove a predetermined percentage of its turbines on a specified, phased schedule, and that it participate in annual wintertime seasonal shutdown (WSSD) from the 1<sup>st</sup> of November to February 15<sup>th</sup> of each year.

The proposed modifications to the CUP conditions – defined as the Project for the purposes of CEQA – would provide for continued operation of all 828 existing turbines on the site through December 2015, removal of the winter seasonal shutdown requirement, and subsequent decommissioning of the existing turbines and AWI’s share of related APWRA infrastructure. 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.

Although the proposed modifications 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 formerly included AWI, 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.

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 (33% from renewable energy sources by 2020), reduced emissions of carbon dioxide and other greenhouse gases that result from conventional energy production, and sustainable company revenue.

## **HEARING FOR COMMENTS ON THE DRAFT EIR**

EIR Summary: The Draft EIR (DEIR) provides a comprehensive identification of the environmental impacts of the project. An Executive Summary in the DEIR includes Table ES-1, that briefly summarizes each impact that was 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 EIR'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 DEIR also identified some potentially significant impacts on biological resources and noise that would be reduced to less than significant levels after mitigation is implemented:

- Impact BIO-1: Potential to cause a substantial adverse effect, either directly or through habitat modifications, on non-avian special-status species.
- Impact BIO-2: Potential substantial adverse effects on riparian habitat and other sensitive natural communities.
- Impact BIO-3: Potential substantial adverse effects on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means.
- Impact NOISE-1: Exposure of residences to increased wind turbine noise.
- Impact NOISE-2: Exposure of residences to noise during decommissioning activities.

AWI also requested that the EIR evaluate an alternative to the Project in which all 828 turbines would operate through September of 2018, with decommissioning activities taking place primarily in 2019. The Draft EIR provides an evaluation of this alternative, as well as the CEQA-required No-Project Alternative and two other alternatives the County Planning Department identified: 1) Continue seasonal shutdown (WSSD), eliminate the phased decommissioning, and provide for permanent shutdown in 2015 (i.e., the same as the proposed modifications, except for the WSSD); and 2) Continue the WSSD, also eliminate the phased decommissioning, and provide for permanent shutdown one year later than proposed, in 2016

(October 31). 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 greenhouse gases (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.

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 a DEIR (SCH # 2012062060) for the proposed project on May 31, 2012. The NOP was distributed for a 30-day comment period that was extended to July 2, 2012. In addition, the County held a public scoping meeting on June 21, 2012, to solicit input on the scope and focus of the EIR. Comment letters received on the NOP and verbally during the public scoping meeting were considered in the preparation of the EIR. Appendix A of the DEIR contains the NOP, written comments received on the NOP, and a transcript of the public scoping meeting.

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

In accordance with Section 15205(d) of the CEQA Guidelines, the County has scheduled a 45-day public review period for the DEIR, ending on April 19, 2013 at 5:00 p.m., and provided for the public hearing that is the subject of this staff report, to request comments on the DEIR during that 45-day period.

Recommendation: That the East County Board of Zoning Adjustments take public comment on the Draft Environmental Impact Report, and continue the item to a date to be determined, tentatively scheduled for June 27, 2013, for consideration of the Final EIR, a Staff Report, attachments and draft Resolution.

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

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