

Docket No. 06-OII-1

DOCKET
06-011-1

DATE _____
RECD. **AUG 22 2007**

The Guidelines are fatally flawed for the following reasons:

1. The Smallwood and Thelander study (Smallwood study) done in 2004 for the Commission is the foundation upon which the Guidelines stand. Unfortunately, much of the evidence of bird takes contained in the Smallwood study is altered and forged. Therefore it cannot be used for any purpose nor can it serve as a basis for establishing guidelines that seek to understand and limit bird and windmill interaction. See Exhibit A for some examples of the altered documents. For example, they contain erasures changing the cause of death from “predator” to “windmill.” This sort of deviation from the scientific method permeates the study. It is to be noted that at the August 5 hearing no one rose to defend the Smallwood study, not one voice was heard in its defense or support.
2. The project manager of the CEC independent review of the Smallwood study found the study “should not be considered as the basis for developing siting requirements for future wind energy projects”, yet the draft Guidelines cite the Smallwood study five times. Fish and Wildlife recently quoted the study in a letter opposing a wind project in Riverside County. In fact, as discussed below, bird takes, if any, in Riverside County are biologically insignificant

3. The Guidelines make no distinction as to various regions of the state. In Riverside County the windmills are installed in the desert where there is no game for raptors to hunt. The author of the NREL Anderson study for the San Geronio Pass area found windmill bird interaction to be biologically insignificant based on a survey by two biologists, five days a week for two years. I have operated wind farms in this region since 1981 and visit the projects daily. In the past 26 years I have seen only one bird killed by a windmill facility, and that was a crow killed by an open transformer. I suggest you give my testimony in this regard at least as much weight as that of biologists who alter and forge evidence.
4. Wintec operates windmills in the Altamont Pass on land owned by the East Bay Regional Park District. The District commissioned a study of bird takes by our windmills on its land. The study began on May 24, 2006 and continues. So far they have only found two dead nestlings and one mature bird of undeterminable species, and one dead Hawk. The hawk was dismembered, which is evidence of an attack by another predator. Contrary to what some would like you to assume, windmill blades are not sharp, they do not sever wings, they do not dismember, these injuries are caused by utility power lines or other predators. See Exhibit B for pictures of the hawk; further examples from the Smallwood study; and a summary of the evidence found so far. Although this is an ongoing study, evidence has been collected for enough time to further discredit the Smallwood study. Contrary to the truth, the Guidelines assume we kill dozens of birds there. The assumption is wrong; it is based on error and fraud.
5. At the August 13, 2007 CEC hearing Wintec made a standing offer to all the environmentalists at the hearing to pay any of them \$1,000 for any per bird or bat they could find on any of our Riverside county wind farms which was killed by a windmill. The offer was good for the next 90 days with a promise of free access to the sites. As of August 22, 2007 none of them have taken up the challenge.
6. A word on bats. There is no evidence that windmills kill listed or to be listed bats, or any bats for that matter, in Riverside County, yet the Guidelines want us to do acoustical studies for THREE YEARS to find out if there is a problem. Then, inevitably, more studies. We will not be put in a position of having to spend millions and endure years of delay to prove a negative.
7. If the Commission adopts the proposed Guidelines it will be good for biologists who will be paid millions to study a problem that does not exist in Riverside County; lawyers who will be able to stop any wind project due to the guidelines Byzantine requirements; the coal industry which many believe takes great pleasure in republishing the fraud; and all those who have over these many years fought your efforts to promote the use of alternative energy. The losers will be the wind industry in California, since the moratorium you may create will stop all development for several years. Ultimately the Commission itself will be tarnished. If the Commission adopts Guidelines based on a fraud, the scandal will inevitably bubble to the top. The violation of the scientific

method is so egregious that it will inevitably be noticed and publicized, all to the great discredit of the Commission.

Does the Commission really want to cripple and perhaps destroy a wonderful industry which it created?

As we have said, we take no pleasure in these remarks, but we believe you have no interest in perpetuating a fraud and it is our duty to call it to your attention.

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EXHIBIT A

Rock dove carcass field data sheet

Filled out by field personnel

Type of Injuries: (Broken wing, decapitated, body in half, internal injuries, head wound, burned feathers etc.)
unknown - carcass missing

Scavenging activity: ☒ Yes ☐ No Type: pos mammal Time since death: _____

Cause of death:

Turb. Collision	Tow. Collision	Predation	Wire strike	Electrocution	Unknown	Not enough evidence
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Comments: 2 sets of feather clusters but with different feathers - could be more than one bird. 1st + 2nd only five feet apart.

Copy in the monthly report to the CEC

Type of Injuries: (Broken wing, decapitated, body in half, internal injuries, head wound, burned feathers etc.)
unknown - carcass missing

Scavenging activity: ☒ Yes ☐ No Type: pos mammal Time since death: 2 weeks

Cause of death:

Turb. Collision	Tow. Collision	Predation	Wire strike	Electrocution	Unknown	Not enough evidence
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Comments: 2 sets of feather clusters but with different feathers - could be more than one bird. 1st + 2nd only five feet apart.

28% of data sheets in the monthly reports had erasures

Fatality Incidents

Allamont Wind Resource Area

DATE: 4-10-02 Searcher: CEC Photo: 1 ft wing 23 (2) ☒ Yes ☐ No

Plot No. Site 4 str: 194 Reported by: MR. TR. SW. BX Type of find: walking search

Species: Corvus brachyrhynchos AOU code AMCB Age: Sex:

No. Parts found: 2 Type: 1. 1 ft wing 2. rt. wing

Carcass measurements (mm): Rt. Tarsus length width Rt. Wing length

Weight

Nearest structure: ☒ Wind Turbine ☐ Power pole ☐ Anem. Tower ☐ Elect. wire ☐ Other:

Part No.	Distance to Structure	Bearing	Turbine or pole No.	Tower Type	Company	Tow. Rank	GAP y/in
1	4 m (50m)	262	CWS (A4)	power pole	(SERVIST)	(1 of 3)	N
2	0.5 m (5m)	302	CWS (A4)	"	(SERVIST)		

"Electrocuted birds were found under distribution poles, turbine-caused deaths were found under or near wind turbines." CEC staff

Type of Injuries: (Broken wing, decapitated)

Scavenging activity: ☒ Yes ☐ No

Cause of death: ☐ Turb. Collision ☐ Tow. Collision ☐ Predation ☐ Wire entile ☐ Electrocution ☒ Unknown ☐ Not enough evidence

Comments: below power pole, next to road, near turbines

Distance to pole 0.5 m; distance to turbine 50 m. Entered into database as turbine collision

EXHIBIT B



Fatality Incidents

Allamont Wind Resource Area

DATE: 2-11-03 Searcher: CEC Photo: Yes (No)
 Plot No. gate 7 Reported by: ML & BK Type of find: walking search
 Species: Columba livia AOU code: R000 Age:
 No. Parts found: 1 Type: feathers Sex:
 Carcass measurements (mm): Rt. Tarsus Beak

"Although raptors do kill and eat each other, as Weisskopf says, the trauma evident on carcasses does not look like the types of injuries caused by wind turbines - severed wings, tails, and heads, and cut torsos." CEC staff

Specimen Found:		Feathers		Injured bird		Small pieces	
Carcass	Partial Carcass	Wing	Head	Injured bird	Small pieces	Small pieces	Small pieces
Tarsi	Old Remains						

Carcass condition: (Decomposition level of the remains and carcass position, fresh, dry, weathered, dismembered)

Very fresh. Lots of blood present on grass and feathers (bright red still)
Bits of flesh present, moist and red.

Type of Injuries: (Broken wing) Unknown

Carcass used in turbine mortality calculations

Scavenging activity: ☒ Yes ☐ No Type: Unknown Time since death: 3 days

Cause of death: ☐ Turb. Collision ☐ Tow. Collision ☐ Predation ☐ Wire strike ☐ Electrocution ☐ Unknown ☐ Not enough evidence

Comments: Likely predation due to quantity of blood on ground (indicative of a live bird being killed in this spot)

Turbine blades purported to sever avian body parts

Thickness of leading edge of turbine blade is 2 inches

Head and blade are the same scale



[illegible]