

CALIFORNIA ENERGY COMMISSION

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DOCKET 06-011-1
DATE _____
RECD. NOV 30 2007



Kenneth Stein
FPL Energy Project Management, Inc.
700 Universe Blvd., MS JES/JB
Juno Beach, FL 33408

Re: Clarification on California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development

Dear Kenny:

Thank you for your September 24, 2007 letter on the Final Committee Report, *California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development (Guidelines)*, released on September 14th. In that letter you requested post-adoption clarification on the following points that you felt were not sufficiently clear in the latest draft of the *Guidelines*:

1. The first of your suggested revisions would change the language on page 9 (and similar language on page 38) to:

Projects with considerable uncertainty regarding the level of impacts to birds and bats or that have potential for impacts that cannot be sufficiently mitigated will need more study than Category 2 projects to help understand and formulate ways to reduce the number of fatalities.

You note that this revision emphasizes that the level of uncertainty, not the level of bird or bat use, determines pre-permitting study effort, and that this revision would make the section consistent with earlier language in the step-by-step guide. We agree that this revision makes the document clearer and more consistent on this topic. When the time comes for public input on suggested updates on the *Guidelines* we anticipate that all parties would also concur that this is an acceptable change.

2. Your letter suggested deleting the last of four bullets that the *Guidelines* use to describe a project that might fall into Category 3:

"Sites near or contiguous to wind projects that have experienced high bird or bat fatalities that cannot be avoided or minimized."

Deletion of this bullet would be a substantial shift in how the *Guidelines* characterize a Category 3 project, so its deletion would require further discussion by all parties when it comes time to revise the *Guidelines*.

3. Page 69, 2nd full paragraph you suggest the following revision:

"If multi-year monitoring documents unanticipated, significant impacts, removal of problem turbines or seasonal shutdowns of turbines may be options if other minimization measures are ineffective in reducing fatalities."

We agree that replacing "high levels of fatalities" with "unanticipated" makes the document clearer and enhances consistency with earlier language in the *Guidelines*, and we expect that

other parties will also agree with this revision. However, describing an impact as “significant” rather than leaving that judgment to the lead agency is not consistent with similar discussions elsewhere in the document, and merits discussion with all parties before considering a revision.

4. You suggested some revisions on page 69 to clarify the circumstances under which long-term monitoring might be appropriate, and to promote the use of outside funding for such monitoring. You expressed a concern that the current language in this section might be interpreted as triggering long-term monitoring anytime fatality levels are above what was predicted, even if permit conditions already provided a mechanism for additional mitigation in those cases.

We agree that some additional language might be useful to clarify that long-term monitoring would be triggered only if the permit conditions did not include a mechanism for adequately mitigating unanticipated fatalities. However, on the issue of public funding for long-term monitoring, we feel that we need a more in-depth discussion of this topic by all parties will be needed in making changes. Currently the intent in this section is that project-specific monitoring would be the responsibility of the developer because the purpose of such monitoring would be to gather information to develop impact avoidance, minimization, and mitigation measures and to verify whether these measures were effective in reducing fatalities. Before explicitly stating that public funding would be appropriate for such monitoring, we would like input from all stakeholders.

5. On page 39 you suggested the following revision:

“The lead agency needs to know that the pre-permitting study design has considered input from appropriate scientists and from interested parties.”

You noted that this revision was needed to clarify that wind energy companies are not expected to necessarily incorporate all stakeholders’ suggestions, but rather to consider them. We agree that your proposed revision is an improvement, and anticipate that other parties will also agree to this change when the time comes for public input on suggested updates on the *Guidelines*.

Thank you again for your comments, and for the many significant contributions you and others from FPLE have made throughout the process of *Guidelines* development. If you have questions, please contact me at (916) 654-3945.

Sincerely,

Rick York