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24 October 2008

John Day
Energy Planner
Santa Barbara County Planning Department
123 East Anapamu Street
Santa Barbara, CA 93101

Re: Lompoc Wind Energy Project
Response to the California Fish and Game Appeal

Dear Mr. Day,

Pacific Renewable Energy Generation LLC, a wholly owned subsidiary of Acciona Energy North America Corporation, the proponent for the Lompoc Wind Energy Project, would like to submit the following comments in response to the California Department of Fish and Game (CDFG) appeal of the County Planning Commission's approval of the Lompoc Wind Energy Project, (CDFG Appeal). We appreciate the opportunity to respond to the appeal prior to the County Board of Supervisor's hearing. Acciona values the County's efforts in conducting a thorough environmental review, and fully supports the County Planning Commission's unanimous decision to certify the Final Environmental Impact Report (FEIR) and approve the Conditional Use Permit (CUP) and Variance for the project. Acciona looks forward to resolving the issues raised in the CDFG appeal so that it can begin installation and operation of this important renewable energy project.

In their appeal letter, the California Department of Fish and Game (CDFG) indicates their concerns related to conformance with the California Energy Commission (CEC) Guidelines (hereafter Guidelines) and related recommendations contained in the Guidelines for determining the potential or prospective level of impacts to birds and bats from the proposed Lompoc Wind Energy Project (LWEP). Although the Guidelines are advisory in nature and not promulgated by statute, the project applicant, Pacific Renewable Energy Generation, LLC (a wholly owned subsidiary of Acciona Wind Energy USA, LLC), subsequent to comments received from CDFG, environmental organizations, and the public in response to the circulation of the Draft Environmental Impact Report (DEIR) for public review, retained the services of Sapphos Environmental, Inc. to conduct supplemental investigation of biological resources. All studies performed by Sapphos Environmental, Inc. conformed to the Guidelines with the exception of the recommendation to conduct two years of bat monitoring. At the time that Sapphos Environmental, Inc. was retained, there was only sufficient time available to conduct a single year of investigation of bats. As a result of the more than 1,000 hours of field investigation, the site was determined to be depauperate for birds and bats and thus a site for wind energy development that avoids and minimizes impacts to wildlife resources to the maximum extent practicable.

The Guidelines specifically allow for the use of other scientifically credible approaches. For birds, the project proponents consulted several authoritative sources on bird survey protocols, including *Bird Census Techniques* (2000). This is an authoritative peer-reviewed book (302 pages) that is widely used by

ornithologists, avian conservationists, and consultants alike in Europe, North America, and elsewhere.

I. Adhering to and Implementing the Wind Energy Guidelines is Critical to Meet the Disclosure and Mitigation Requirements under CEQA

Birds

The CDFG appeal letter states that the proponents of the LWEP did not adhere to the Guidelines. Although not required, the County of Santa Barbara and the project applicant collaborated in the performance of all applicable studies recommended pursuant to the Guidelines with the exception that one rather than two years of bat surveys are performed. In addition, the CDFG Letter of Response to the Final EIR contained no stated objections to any of the avian studies included in the Final EIR, which causes inconsistency with the appeal letter. The appeal letter provides no recommendations for appropriate actions from the Guidelines to be applied to the LWEP, which is a relatively small wind farm site (2,950 acres) of limited habitat diversity and quality, elevational range (1,200 feet; 700 to 1,900 foot elevation), an essential lack of water bodies, and a scarcity of riparian habitat.

Nonetheless, the project proponents of the LWEP followed many recommendations from the Guidelines, including preliminary site screening, following the California Environmental Quality Act (CEQA)–permitting process, a pre-permitting assessment, and assessing impacts and developing mitigation measures. Following publication of the DEIR and earlier criticisms of the biological resources section of the DEIR, including the CDFG Letter of Response to the 2007 DEIR, preliminary site screening included a detailed assessment of the inferred baseline and impact analyses for avian species at the LWEP site. Part of the CEQA–permitting process subsequent to the DEIR was the response by the project applicant, Pacific Renewable Energy Generation, LLC, to meet with environmental advocacy groups and other parties to discuss and remedy objections to the biological resources section of the DEIR. CDFG was welcome to participate in numerous meetings and teleconferences. The environmental advocacy groups accepted the results and interpretations presented in the avian studies cited in the Final EIR, which included the results of the winter and spring surveys. The results of the summer surveys and preliminary results of fall (in progress) surveys were provided to the project applicant at the Planning Commission Hearing in Santa Maria on September 30, 2008, where CDFG (Mr. Martin Potter) was in attendance.

Furthermore, pre-permitting assessment studies for birds included recommendations from the Guidelines. For diurnal avian surveys, these included raptor nest surveys, area search before-after control-impact surveys, migration counts, dusk surveys, and reconnaissance surveys. One migration count used was an early morning flight count protocol on a pilot basis during spring and is being systematically used in autumn (current study). The early morning flight counts of nocturnal migrants and the redirected flight of typical diurnal migrants has never or rarely been used by environmental consultants in California; however, it has proved useful at the LWEP site. The nocturnal avian survey included an analysis of NEXRAD radar data by an international expert on radar ornithology, Dr. Sidney Gauthreaux, of Clemson University.

In addition, the project applicant voluntarily used additional survey protocols for avian diurnal surveys that are widely accepted by scientists. As stated in the Guidelines, other scientifically credible approaches can be used. These included line transects, diurnal raptor surveys, and single-point counts of raptors (and other birds). As an example, diurnal raptor surveys focus on collecting information on numbers and activities of diurnal raptors, as some of these species are known to be susceptible to collisions with wind turbines, particularly while migrating or foraging. Diurnal raptor surveys used line transects of unequal distances and times on each of the five main ridge systems on the proposed LWEP site, with raptor observations standardized to the number observed per kilometer. The line transects are limited distance transects with recorded observations restricted to each of the five ridges to reduce concerns associated with repeat counts of birds moving between ridges. Estimating the number of raptors per kilometer is an improvement over any of the recommendations contained in the Guidelines. Furthermore, diurnal raptor surveys collect much of the same information collected in bird use count (BUC) protocols, such as bird activity, estimated height above ground, and whether the individual bird is migrating at the LWEP site or not.

BUC protocols have not been proven useful in estimating wind turbine fatality rates of songbirds because studies have not shown a strong positive correlation between songbird use of a wind farm site and songbird fatalities, a point CDFG concedes. Because of these findings, BUCs were not used at the LWEP site where songbirds comprise most of the individual birds at the site. Furthermore, BUCs have not been proven to be consistently reliable for predicting potential impacts at wind turbines, even for raptors. The most recent authoritative paper on this subject, not cited in the Guidelines, demonstrated that raptor bird use in Scotland and fatality rates was not positively correlated (also see Chamberlain et al. 2006).

Bats

The CDFG appeal letter also addresses the perceived short-comings of the Chiropteran studies conducted at the LWEP site. Pacific Renewable Energy Generation, LLC retained the services of Sapphos Environmental, Inc. to conduct bat surveys in addition to the surveys that were conducted originally in March 2008. Sapphos Environmental, Inc. conducted surveys consistent with the recommendations presented in the Guidelines. Sapphos Environmental, Inc. used Anabat SD1 acoustic bat detectors during the spring and fall migration period for a total of 256 hours of acoustic recording. Four Anabat SD1 units were deployed; two units were placed at fixed sampling locations at the ground level; and two units were affixed to meteorological towers at 200 feet above ground, which represents the rotor sweep zone of a functioning wind turbine. In addition, Sapphos Environmental, Inc. used Pettersson Elektronik bat acoustic detectors at the end of the spring migratory period as well as during fall migration. Wildlife biologists (Mr. Andrew Keller and Mr. Charles J. Randel) sampled 20 randomly select points around the LWEP site in a variety of habitat types during the hours of 8:00–10:00 p.m. for each sampling period for a total of 40 hours of acoustic sampling. While the data is currently being analyzed, preliminary results seem to indicate that the site is a low-use site for bats. Preliminary results were presented at the September 30, 2008 Planning Commission Hearing.

II. Information Presented to the County in the EIR is Based on Surveys that Do Not Adequately Describe Existing Environmental Conditions or, More Importantly, the Significant Project-Related Impacts to Trust Resources

Birds

The CDFG appeal letter, referring to a presentation by the project applicant at the Planning Commission Hearing on September 30, 2008, states that the number of spring passage migrants counted at the LWEP site was 227 individual birds of 52 species. This is correct and represents an average of 10–30 passage migrants per day at the LWEP site. CDFG also states that the applicant described the LWEP site as having the lowest bird and bat use of any wind farm in California but what was actually stated in the Final Avian Spring Migration Pre-construction Survey Technical Report for the Final EIR was “the abundance of diurnal avian migrants (waterbirds, raptors, and songbirds) during spring 2008 at the proposed LWEP property was very low, among the lowest number of passage spring migrants [not all birds] that has been recorded at any wind power project property in California.” Additional information on birds that occurred at the LWEP site during April and May was included in the Final Avian Breeding Season Pre-construction Survey Technical Report, which was provided to the County of Santa Barbara on August 5, 2008, and became available to the public thereafter, including CDFG. This latter document was also provided directly to CDFG as an attachment in an e-mail.

The Final Avian Spring Migration Pre-construction Survey Technical Report, covering the period of April and May 2008, made an effort to parse out migrating individual birds from non-migrants for all species of birds (landbirds and waterbirds) that occurred at the LWEP site. This type of effort has rarely been attempted at wind farm sites in North America and, as such, represents an improvement over most studies. The Final Avian Breeding Season Pre-construction Survey Technical Report discusses the survey results conducted from April through June 2008, and addresses all species occurring at the LWEP site except migratory individuals documented in the Final Avian Spring Migration Pre-construction Survey Technical Report. In particular, the breeding season report includes a before-after control-impact study based on 54 area search

count circles within and outside of wind turbine corridors that documents the species most likely to be susceptible, or potentially susceptible, to collisions with wind turbines. The Final Winter Season Avian Pre-construction Survey Technical Report also includes all species occurring at the LWEP site. As a result of winter season surveys, 18 additional avian species were added to the list of species observed at the LWEP site.

In addition, CDFG states that many of the remaining 42 species (apart from the 52 migratory species) listed in the Final Avian Spring Migration Pre-construction Survey Technical Report would be at risk from wind turbine collisions but does not enumerate the species considered to be at potential risk. Consultation with the CDFG resulted in the identification of only one species by the CDFG, the red-tailed hawk (*Buteo jamaicensis*), as a species potentially at risk from wind turbine collisions. Most common resident species to occur at the LWEP site—particularly species that occur in scrub habitats such as the wrenit (*Chamaea fasciata*) and other brushland species—are not susceptible to collisions with wind turbines. In Spain, for example, in a Mediterranean environment similar to the LWEP site, the annual number of bird fatalities per turbine was very low (0.03 birds), including at a notable migration point (which is absent at the LWEP site). A full description of all avian species considered to be at potential risk from wind turbine collisions has been provided in Memorandum for the Record (MFR) No. 12 and all three avian technical reports (two of which are appendices to the Final EIR) as separate species accounts that include all individual birds counted, both migratory and non-migratory individuals. This includes common species such as the three main raptors at the LWEP site [turkey vulture (*Cathartes aura*), red-tailed hawk, and American kestrel (*Falco sparverius*)], as well as all other raptors (regardless of legal status) and all special-status species (regardless of whether they are considered to be at potential risk or not). In addition, after discussion with environmental advocacy groups, avian species considered to be of local importance also received full individual species treatment in MFR No. 12 and in each of the three avian technical reports specified. This effort satisfies CDFG's concerns expressed in their 2007 and 2008 comment letters that special-status species and potential impacts to these species should be fully documented and analyzed.

CDFG states that autumn migration surveys have yet to be completed on the LWEP site and also states that autumn migration is when bird counts should be the highest.

The anticipated level of autumn migration at the LWEP site, as fully discussed at the third meeting between the project applicant and environmental advocacy groups in the County of Santa Barbara on June 24, 2008, is still expected to be low as discussed in MFR No. 12 and strongly supported by Dr. Gauthreaux's NEXRAD analysis, an independent analysis of regional migration data (2006–2007, including the LWEP site) from the County of Santa Barbara and surrounding areas. His analysis resulted in the determination that the volume of nocturnal autumn migration averaged approximately 1.1 to 1.5 times higher than in spring, which would still constitute a very low migratory volume at the LWEP site. Conditions controlling nocturnal migration at the LWEP site, particularly wind direction and geographical position of the site, would also apply to diurnal migration at the LWEP site.

The project applicant has committed to a full year of data collection of pre-construction surveys, a full year of postconstruction surveys, and two full years of postconstruction monitoring pursuant to Mitigation Measure BIO-16a. In addition, at the Planning Commission Hearing on September 30, 2008, the project applicant committed to an additional two years of postconstruction monitoring to be conducted within 10 years of project operation.

It should be noted that the unpublished Smallwood manuscript cited in the 2007 and 2008 CDFG comment letters as a predictive model, based on waterfowl data, erroneously predicts that the LWEP site would be a high-use site for waterfowl. Only one species of waterfowl represented by two individuals have been detected at the LWEP site in almost one year of sampling, in addition to an absence of documentation of any waterfowl in the DEIR. From this prediction in their 2007 comment letter pertaining to waterfowl and raptors, CDFG estimated that the proposed LWEP site would likely have among the highest potential for turbine collision and avian mortality at any wind farm compared to approximately 10 other proposed wind farm sites in California. As documented in the DEIR, MFR No. 12, the three avian technical reports

specified, and Dr. Gauthreaux's report entitled *Analysis of WSR-88D Data to Assess Nocturnal Bird Migration Over the Lompoc Wind Energy Project*, it was determined that the LWEP site is not an area with a high potential for turbine collision and avian mortality.

The evaluation of waterfowl migration across the LWEP site indicated that the small peninsula ending at Point Conception does not force migrating shorebirds and seabirds to alter their preferred migratory directions and move towards the LWEP property. Seabird migration during spring and autumn are prominent components of this portion of the confluence of central and southern coasts of California within the County of Santa Barbara."

Some seabirds normally occur in the interior of Southern California; however, no documented evidence exists to suggest these species move from the coast into the interior over the vicinity of the LWEP study area near Lompoc to reach Cachuma Lake, the nearest fresh water source that can support large populations of seabirds. The prevailing direction of coastal shorebird and seabird flights along this sector of the coast in autumn (south then southeast to east-southeast) or spring (west-northwest then northwest to north) follow the general preferred direction of flight in both seasons. Thus, the slight bulge in the small peninsula ending at Point Conception does not force migrating shorebirds and seabirds to alter their preferred migratory directions and move towards the LWEP property.

Bats

Results from spring and fall acoustic sampling for bats at the LWEP site indicate low species diversity at the property. Three species were determined to be present during the spring and fall migration and include the western mastiff bat (*Eumop perotis*), pallid bat (*Antrozous pallidus*), and hoary bat (*Lasiurus cinereus*). Relative bat activity was low at the LWEP site with five sonograms recorded in total for all bat acoustic detectors deployed during the spring, summer, and fall months. Bat sonograms were generally recorded near non-native eucalyptus groves and oak scrub edge habitat; both habitat types are outside of proposed wind turbine corridors.

Significant Project-Related Impacts on Trust Resources are Not Mitigated to the Extent Feasible as Required by CEQA

In their letter of appeal, CDFG states their concern that the County of Santa Barbara did not present adequate, feasible mitigation measures for the minimization of significant adverse impacts to migratory birds and bats resulting from construction and operation of the LWEP. CDFG is requesting compensatory mitigation, in the form of replacement habitat. In addition, CDFG strongly recommends the formation of a Technical Advisory Committee to review and assess the results of the proposed Bird/Bat Mortality Study (Mitigation Measure BIO-16b) and advise the County of Santa Barbara on appropriate mitigation measures and their implementation.

The significance of each impact resulting from implementation of the LWEP has been determined according to either the County of Santa Barbara Thresholds and Guidelines Manual or CEQA thresholds. As discussed in the Final EIR, there are three significant and unavoidable impacts associated with implementation of the LWEP, one of which is related to biological resources, namely that an unknown number of protected birds and bats may be killed through collisions with the wind turbine generators over the duration of the project. It has been found that the rest of the project impacts can be mitigated to acceptable levels, adverse but less than significant, or they have been identified as beneficial impacts. Approximately 127 acres of vegetation and wildlife habitat will be temporarily impacted by construction, with an additional 43 acres being permanently disturbed (e.g., by construction of roads, pads, facilities sites).

The Final EIR anticipates that mortality to migratory birds will be equal to or less than an average of 1.85 birds per turbine per year based on reported data for other comparable projects in California. The veracity of these conclusions is further supported by the low levels of migratory birds using the site within the operational zone of the turbines as a result of directed surveys during winter and spring migration of 2008. The Final EIR anticipates that mortality to migratory bats will be equal to or less than an average of 3 bat

deaths per turbine per year based on reported data for other comparable projects in California. In an effort to validate the Final EIR analysis, the project proponent has voluntarily offered to conduct pre- and postconstruction surveys to document the effect of the operation of the LWEP and to implement an Adaptive Management Plan in the unanticipated event that avian and bat mortality exceed the levels anticipated in conjunction with the project operation.

The Final EIR describes 16 mitigation measures for impacts to biological resources that are consistent with conditions set forth in the Conditional Use Permit (CUP) issued by the County of Santa Barbara. Section V of the CUP addresses County of Santa Barbara rules and regulations as well as legal requirements that include the preparation of an Environmental Quality Assurance Program (EQAP) by the project owner/operator following procedures established by the County of Santa Barbara Planning and Development. The EQAP must be submitted for review and approval to the County of Santa Barbara and include all conditions and mitigation measures imposed on the project and the impacts being mitigating according to subject area. In addition, the EQAP will provide a description of all measures the project owner/operator will take to ensure compliance, including field monitoring and reporting, data collection, management and coordination of all field personnel, and feedback to field personnel and affected County of Santa Barbara agencies.

In addition, an Adaptive Management Plan is included as a mitigation measure as outlined in the Final EIR, in the unanticipated event that avian or bat mortality of resident, migratory, or special-status species exceeds the levels included in the Final EIR.

Compensatory Mitigation

The LWEP has been designed to avail itself of a property with adequate potential for wind energy development that minimizes the potential for conflicts with resident and migratory wildlife. The potential loss of habitat and aerial habitat are relatively minor impacts that are best addressed through site design and adaptive mitigation. There is no nexus for compensatory mitigation required by CDFG.

As stated in the Pacific Renewable Energy Generation, LLC response to the September 19, 2008 letter from the Environmental Defense Center, the acquisition, enhancement, or preservation of compensatory habitat, including off-site conservation easements, are typically used to mitigate for two types of impacts to bird and bat species: 1) easements for loss of aerial habitat, and 2) easements to mitigate for anticipated mortality. As noted in the Final EIR, the anticipated aerial habitat loss from wind turbine generator operation would be adverse but less than significant, affecting only about 6 percent of the entire project area. As discussed in the Staff Report to the Planning Commission, there is abundant comparable aerial habitat in the vicinity of and throughout the County of Santa Barbara, and although conservation easements could potentially have long-term generalized biological benefits, there is no proven link between distant conservation lands and aerial habitat loss.

Conservation easements to mitigate for anticipated bird and bat mortality would also not be a reasonable or even feasible mitigation. As with aerial conservation easements, there is little, if any, proven nexus between bird and bat mortality and distant conservation lands or easements. For the LWEP, this is particularly true because the species at issue do not have any known nests or maternity sites within the wind turbine corridors. Furthermore, there is no consensus regarding how to establish the necessary acreage or characteristics of the conservation lands to compensate for protected species. Therefore, any use of such conservation tactics would be arbitrary.

CDFG provides three examples of compensatory mitigation in their September 25, 2008 letter to the County of Santa Barbara that CDFG believes will mitigate for anticipated impacts:

Example #1 is ratio-based related to permanent, temporary, and aerial impacts to achieve appropriate mitigation. This ratio-based example results in compensatory mitigation of 1,086 acres of annual grassland and coastal scrub habitats that would provide foraging/nesting habitat for raptors.

Example #2 is biologically based on one third of the 15,000-acre home range habitat

required by the golden eagle (*Aquila chrysaetos*). This biologically based example results in compensatory mitigation of 5,000 acres.

Example #3 is based on comparable wind energy facility mitigation. Based on the Final EIR for the Hatchet Ridge Wind Energy Project in Shasta County, this example recommends that compensatory mitigation be tasked to a Technical Advisory Committee.

Examples 1 and 2 recommend compensatory mitigation that is not commensurate with low use of the site by raptors; the DEIR and Final EIR document that the LWEP site is generally a low raptor-use site, with only two common species at potentially moderate risk of collisions with wind turbines (the red-tailed hawk and American kestrel) and would not be commensurate with the minor scale of habitat loss impacts identified in the Final EIR. In addition, the acquisition of compensatory mitigation lands in the form of conservation easements would not be economically feasible for the project proponent. Profiles for properties that have sold recently in the Lompoc area or that are currently for sale with habitats comparable to the project site range in value from \$5,416 to \$15,567 per acre. This would require the project applicant to place between \$5.9 to \$16.9 million towards the funding of 1,086 acres of conservation easement within the County of Santa Barbara under Example #1 and between \$27 to \$77.8 million towards the funding of 5,000 acres of conservation easement under Example #2. Coordination with the Land Trust for Santa Barbara County has identified opportunities for funding conservation easements at Caraega Canyon and Las Flores Ranches located in the San Antonio Creek Watershed and at Rancho El Jabali/Alma Rosa Winery in the Santa Inez Valley. It is likely that funding of the subject conservation easements would like fall within the same range of \$5,416 to \$15,567 per acre.

While a Technical Advisory Committee is not specified in the DEIR as recommended in Example #3, the DEIR states that consultation with the U.S. Fish and Wildlife Service (USFWS) or CDFG, as applicable, will be undertaken in support of the implementation of biological mitigation measures for Bird and Bat Monitoring and Adaptive Management Plan (BIO-16) thus providing the resource agencies an opportunity to be actively engaged in the project.

There are no developed wind farms within the County of Santa Barbara; therefore, there is no empirical data on avian collision rates and mortality at wind farms within the County of Santa Barbara, California. Available data from other comparable sites in California and western North America appear to generally support the conclusion that few birds other than selected species of diurnal raptors such as the red-tailed hawk are killed at modern wind turbine farms of tubular and not lattice construction" (also see Johnson et al.), especially when compared to collision rates at other structures such as communication towers."

Technical Advisory Committee

Establishment of a Technical Advisory Committee does not constitute mitigation as defined by CEQA as it serves no purpose in avoiding, reducing, or compensating for impacts to wildlife resources. Pursuant to CEQA, it is the responsibility of the County of Santa Barbara, in its role as lead agency, to oversee the implementation of the mitigation measures that have been required as conditions of approval.

A Technical Advisory Committee would not be necessary as the CUP approved by the County of Santa Barbara on September 30, 2008, states that consultation with USFWS or CDFG, as applicable, will be undertaken in support of the implementation of biological mitigation measures for Gaviota tarplant, nesting birds and roosting bats, El Segundo blue butterfly, and the Bird and Bat Monitoring and Adaptive Management Plan thus providing the resource agencies an opportunity to be actively engaged in the project; the USFWS, U.S. Air Force, CDFG, U.S. Army Corps of Engineers, and Pacific Renewable Energy Generation, LLC initiated outreach that engaged local environmental advocacy groups in November 2007.

In addition, Section V of the CUP addresses County of Santa Barbara rules and regulations as well as legal requirements that include the preparation of an EQAP by the project owner/operator following procedures established by the County of Santa Barbara Planning and Development. The EQAP must be submitted for review and approval to the County of Santa Barbara and include all conditions and mitigation measures

imposed on the project and the impacts they are mitigating according to subject area. In addition, the EQAP will provide a description of all measures the project owner/operator will take to assure compliance, including field monitoring and reporting, data collection, management and coordination of all field personnel, and feedback to field personnel and affected County of Santa Barbara agencies.

BIO-6 Gaviota Tarplant Disturbance

“The Project owner/operator shall retain a qualified botanist approved by the California Department of Fish and Game and the County to prepare a Gaviota Tarplant Mitigation Plan to address impacts to Gaviota tarplant...” In addition, the Project owner/operator shall obtain a CESA permit from CDFG and shall prepare a Mitigation Monitoring and Reporting Plan to meet the requirements of CESA, as required by CDFG.”

BIO-12b Nesting Birds and Roosting Bats

“If an active nest raptor nest is found, no construction activity shall occur within 500 feet of the nest or as directed by the County-approved biologist unless otherwise directed by CDFG...”

“The CDFG shall be consulted prior to any disturbance of bat maternity roosts.”

BIO-13 El Segundo Blue Butterfly

“If [El Segundo Blue Butterfly] ESBB has been found on site, the [restoration] Plan shall be submitted to the U.S. Fish and Wildlife Service [for] approval prior to implementation....”

BIO-16 Monitoring and Adaptive Management Plan

“...In reviewing and approving the final plan and applying the required measures, the County will consult with CDFG and USFWS, as appropriate...”

“...If recorded bird or bat fatalities reach the threshold criteria for Level 1 (*Adaptive Management Threshold Criteria*), the project operator shall notify the County within 24 hours and make the required notifications to CDFG and USFWS...”

“...If recorded bird or bat fatalities reach the threshold criteria for Level 2 (*Adaptive Management Threshold Criteria*), the project operator shall notify the County within 24 hours and make the required notifications to CDFG and USFWS...”

“...The following Level 2 response options shall be considered by the County, in consultation with CDFG, and implemented as soon as feasible if determined to be feasible and likely to reduce or compensate for further fatalities similar to those that triggered the Level 2 response...”

“...Shutdown or operational restrictions shall be required for specific WTG(s) if the Director of Planning and Development, in consultation with the CDFG, makes all of the following determination....”

Request for Relief: Reversal of Planning Commission Approval and Certification, and Re-Approval and Certification with Additional Conditions of Approval

The information that served to supplement the Final EIR by Pacific Renewable Energy Generation, LLC provided an adequate and objective characterization of baseline conditions and an evaluation of impacts resulting from implementation of the LWEP based on fact, thus ensuring that sufficient substantial evidence is in the administrative record for the Final EIR to fully inform the County of Santa Barbara Planning Commission, Board of Supervisors, responsible and trustee agencies, organizations, and the public regarding

avian and bat species that are expected to be present on the LWEP property, as residents or migrants, that would have the potential to be affected by the LWEP through habitat modification and death or injury resulting from collision with wind turbines.

Acciona appreciates the opportunity to address the issues raised in the CDFG appeal and hopes that the above response has provided clarification to allay any concerns the appeal may have raised. Again, Acciona appreciates the County's efforts in conducting a thorough environmental review of the project and looks forward to constructing and operating this clean renewable energy project.

Best regards,



K. Harley McDonald

- California Energy Commission and California Department of Fish and Game. 2007. *California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development*. CEC-700-2007-008-CTD.
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- Checklist of the Birds of Vandenberg Air Force Base. December 2002. Available at: <http://osiris.cso.uiuc.edu/denix/Public/ES-Programs/Conservation/BirdChecklist/Vandenb/vandenb.html>

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Environmental Defense Center. 2007. Comments on the Draft EIR for Lompoc Wind Energy Facility. Prepared for: Santa Barbara County Planning and Development.

County of Santa Barbara. 30 September 2008. Conditional Use Permit. Case No.: 06CUP-00000-00009.

County of Santa Barbara. 30 September 2008. Conditional Use Permit. Case No.: 06CUP-00000-00009.

Environmental Defense Center. 19 September 2008. Letter correspondence to John Day, County of Santa Barbara Energy Division. Subject: Lompoc Wind Energy Project August 2008 Proposed Final EIR.

Aspen Environmental Group. August 2008. *Final Environmental Impact Report, Lompoc Wind Energy Project*. Pages 3.5-82-3.5-74. Prepared for: County of Santa Barbara, Planning and Development Department.

County of Santa Barbara. 30 September 2008. Staff Report for Lompoc Wind Energy Project. Available at:

<http://www.countyofsb.org/energy/projects/LompWindEnergyStaffReport.asp>

Three raptor nests [Cooper's hawk (*Accipiter cooperii*), red-tailed hawk, and great horned owl (*Bubo virginianus*)] were identified within the approximately 3,000-acre proposed project property as a result of winter, spring, and breeding season surveys conducted by Sapphos Environmental, Inc. from February through June 2008. One Cooper's hawk nest was identified approximately 2,000 feet away from a wind turbine corridor (one Cooper's hawk nest was also identified approximately 400 feet outside of the proposed project boundary). One red-tailed hawk nest was identified approximately 400 feet away from a wind turbine corridor. One great horned owl nest was identified approximately 500 feet away from a wind turbine corridor. One potential bat roost site was identified at the eucalyptus grove located outside of wind turbine corridors.

California Department of Fish and Game. 25 September 2008. Letter correspondence to John Day, Santa Barbara County Planning and Development Department. Subject: Final Environmental Impact Report for the Lompoc Wind Energy Project, SCH #2006071008, Santa Barbara County.

Gustafson, Linda, Bieker and Company. 23 October 2008. Personal communication with Irena Mendez, Sapphos Environmental, Inc., Pasadena, CA.

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Erickson, W.P., G.D. Johnson, and D.P. Young, Jr. 2005. "A Summary and Comparison of Bird Mortality from Anthropogenic Causes with an Emphasis on Collisions." In *Bird Conservation Implementation and Integration in the Americas: Proceedings at the Third International Partners in Flight Conference; 2002 March 20-24; Asilomar, CA; Volume 2; p. 1029-1042*. Edited by C.J. Ralph and T.D. Rich. (General Technical Report PSW-GTR-191). Albany, CA: Pacific Southwest Research Station, Forest Service, U.S. Department of Agriculture.

County of Santa Barbara. 30 September 2008. Conditional Use Permit. Case No.: 06CUP-00000-00009.

Only one potential seasonal or migratory roosting site was identified within the eucalyptus grove at the proposed project property. As a result of fall 2008 bat pre-construction surveys conducted by Sapphos Environmental, Inc. pursuant to CEC Guidelines, only one bat sonogram was recorded for the western mastiff bat. No bat roosting sites are anticipated to be disturbed as a result of project implementation; nevertheless, consultation with the CDFG has been specified in BIO-12b.