

## ATTACHMENT D

### Recommended Modifications to Lompoc Wind Energy Project Permit Conditions and Findings

1. Add an indemnity clause as Condition 11 of the Conditional Use Permit, as follows:

**Indemnity Clause for Violation of the Endangered Species Act:** The applicant shall defend, indemnify and hold harmless the County or its agents, officers and employees from any and all claims, actions, proceedings, demands, damages, costs, expenses (including attorneys fees), judgments or liabilities, against the County or its agents, officers or employees brought by any entity or person for any and all actions or omissions of the applicant or his agents, employees or other independent contractors arising out of this permit alleged to be in violation of the Federal or California Endangered Species Acts (16 U.S.C. Sec.1531 et seq.; Cal. Fish & Game Code Sec. 2050 et seq.). This permit does not authorize, approve or otherwise support a “take” of any listed species as defined under the Federal or California Endangered Species Acts. Applicant shall notify County immediately of any potential violation of the Endangered Species Act.

2. Modify CEQA Finding for Approval 1.4 (Findings for Approval, Planning Commission Staff Report, Attachment A, p.3) as follows:

“Offsite conservation easements or habitat enhancements must be located sufficiently far away from the wind farm that ~~they do not attract birds to the vicinity~~ birds or bats breeding or foraging in the protected habitat are not at risk from wind turbines. The nexus between bird/bat fatalities at the project site and ~~distant~~, offsite habitat conservation easements or enhancement measures is very weak, ~~particularly~~ given the abundance of similar habitat throughout the project vicinity and region and restrictions on development of such land in County Land Use and Development Code and Comprehensive Plan policies.”

[Finding 1.4, Findings for Approval, Planning Commission Staff Report, Attachment A, p.3]