DOCKET
06-OII-1
DATE OCT 0 2 2007
RECD. OCT 0 2 2007

October 2, 2007

The Honorable Jackalyne Pfannenstiel, Chair
The Honorable John L. Geesman, Commissioner
The California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: 06-OII-1 Wind Guidelines – Points of Clarification

Dear Commissioners Pfannenstiel and Geesman:

The Center for Energy Efficiency and Renewable Technologies (CEERT) commends the Energy Commission for its leadership with the California Department of Fish and Game (CDFG) in the development and adoption of the "California Guidelines for Reducing the Impacts to Birds and Bats From Wind Energy Development" (Guidelines). The document, like the drafting process, shows good balance in addressing the concerns raised by the various public stakeholders and government agencies involved in wind energy development in California. While no document of this nature will completely satisfy all parties involved in its creation, the Guidelines represent a strong effort to find the middle ground among a variety of voices on a contentious issue.

In supporting the document we would also like to bring to your attention three small points of clarification which have also been raised in comments by FPL Energy. While small the clarifications may well play an important role as the document goes into use. These are points which had consensus from stakeholders but were not clearly characterized within the document. In responding to these concerns, it may not be necessary to immediately amend the guidelines. However, particularly because of the voluntary nature of the guidelines, a clarifying response from the Commission and CDFG will help the document to be used more effectively.

1. Page 9 first full paragraph currently reads:

Projects with high levels of bird and/or bat use or considerable uncertainty regarding bird and bat use or risk will need more study than category 2 projects to help understand and formulate ways to reduce the number of fatalities.

Similar language also occurs in chapter 3 on page 38.

Clarification:
For projects falling into category one, a change was made in the Final Draft adopted by the Commission which states that, "Projects potentially falling into Category 1 might include infill development, repowering projects, and those near existing wind facilities for which there is little uncertainty as to the level of impacts" (Page 8, paragraph 2, sentence 3). This was recommended by CEERT and others to address instances in which a project is being proposed next to a well studied site with moderate or high bird use but the level of impacts (and thus the mitigation strategies) are clearly defined. As a result, a site for which there is little uncertainty as to the level of impact could fall into category one even if the level of use was 'high'. The current language for category three however seems to contradict this by saying that any site with high use falls into category three. As CEERT understands the intention of these sections, a project with high use could potentially fall into category one and is not a category three project by default.

2. Page 69 2nd full paragraph, last sentence currently reads:

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

Clarification:
The paragraph's first sentence characterizes measures outlined in this paragraph as extreme circumstances. This is clearly how all stakeholders view seasonal shutdowns or removal of turbines. However, the sentence which specifically mentions shutdowns and turbine removal is unclear as to which circumstances would warrant the assessment of these measures as an option. The specific context in which shutdowns and turbine removal are mentioned could be construed to apply beyond the very extreme circumstances for which these measures would ever be considered. To say simply that these measures may be option if high levels of fatalities are documented does not give a clear context for these circumstances. As the prospect of shutdowns and turbine removal hold the very real potential to impact project planning and financing, CEERT feels that it is important for these measures to be characterized as clearly as possible.

3. Page 73 first paragraph second full sentence currently reads:

Long-term monitoring on a periodic basis (for example, every five years) for the life of the project should occur if operations monitoring data or other new information suggests that project operation is likely to result in fatalities to birds or bats that were unanticipated and unmitigated during the permitting of the project.

Clarification: It is not clear from this sentence or the rest of the paragraph who could or should be responsible for financing the long-term monitoring. However, elsewhere throughout the document statements like the one above characterize actions that should be taken solely at the expense of the project developer. As was discussed at length through the drafting process, long-term monitoring may not be the sole responsibility of the project developer. In many cases, data and information generated from long-term monitoring efforts will show a broader public benefit beyond the situation at the specific

site where the monitoring is conducted. In these cases funding from government agencies may well be appropriate. Similarly research institutions partnering with government or industry may find other funding sources to conduct long-term monitoring work with benefits far beyond that specific project. The most important issue to address in long-term monitoring is the fact that project owners or operators should not unreasonably withhold access to the site to allow the monitoring to be conducted. We believe the guidelines adequately address this point.

I can make myself available at your convenience to answer any questions about these clarifications. We greatly appreciate your close consideration of these small but important concerns.

Sincerely,

Paul Vercruyssen
Project Siting Coordinator

CC: Dick Anderson
Susan Sanders
Misa Ward
Rick York
Scott Flint
David Sterner