



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

Agenda Item _____ March 24, 2015

Chris Bazar
Agency Director

March 18, 2015

Albert Lopez
Planning Director

Honorable Board of Supervisors
County of Alameda
Oakland, CA 94612

224
West Winton Ave
Room 111

Dear Board Members:

Hayward
California
94544

SUBJECT: PUBLIC HEARING OF APPEALS BY: 1) ALTAMONT WINDS INC. FROM THE DECISION OF THE EAST COUNTY BOARD OF ZONING ADJUSTMENTS (EBZA) TO DENY THE MODIFICATION OF CONDITIONAL USE PERMITS (CUPs) UNDER PLANNING APPLICATION PLN2014-00028; AND 2) AUDUBON CALIFORNIA FROM THE DECISION OF THE EBZA TO CERTIFY THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR) FOR PLANNING APPLICATION PLN2014-00028

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RECOMMENDATION:

- A. That the Board of Supervisors hold a public hearing, and uphold the decisions of the East County Board of Zoning Adjustments to certify the Supplemental Environmental Impact Report (SEIR), and its decision to deny the application of Altamont Winds, Inc. (President, Rick Koebbe, Tracy, California) to modify existing Conditional Use Permits (CUPs, the subject of Planning application PLN2014-00028) applicable to its wind energy turbine assets in the Alameda County portion of the Altamont Pass Wind Resource Area (APWRA), specifically to extend said permits for three years, from their current expiration date of October 31, 2015, to October 31, 2018; and
- B. If your Board finds that circumstances warrant it, approve the extension for a period to be determined, while the Appellant obtains entitlements and funding and completes other steps necessary to initiate repowering/replacement of their wind turbines and facilities, and make specific decisions recommended by staff in the Board letter provided for the Board hearing previously scheduled on March 10, 2015; and
- C. Adopt resolutions affirming your actions.

DISCUSSION/SUMMARY:

Altamont Winds, Inc. (AWI, one of the Appellants) has operated wind turbine assets with a rated capacity of at least 86 megawatts (MW) in the Altamont Pass area under 16 Conditional Use Permits (CUPs) assigned to separate parcels and property owners, and held either by AWI's affiliate Windworks, Inc., or by Altamont Infrastructure Company LLC (a management company serving AWI and other wind energy operators but which does not own turbines). These CUPs were approved in 2005 and 2006 with the condition that set percentages of the turbines be permanently shut down in phases, in anticipation of repowering (replacing the existing turbines with current generation turbines): 10 percent in 2009; 25 percent more in 2013; and another 50 percent in 2015, before expiring completely in 2018. As required in 2009, AWI shut down 10 percent of its turbines, and currently operates approximately 828 turbines with a combined existing generation capacity of 85.8 megawatts (MW). Under modifications approved by the East County Board of Zoning Adjustments in 2013, the shutdowns required in 2013 and 2015 were eliminated and the expiration was moved up to October 31, 2015. In early 2014, AWI requested the CUPs be modified again to extend operations until October 2018, on the grounds that it must continue to operate its existing turbines to accomplish repowering, and that repowering in 2016 is not feasible.

The 2005-2006 CUPs also required AWI to prepare an environmental impact report (EIR) to

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address repowering and ongoing operations in 2008, particularly due to recognized and ongoing avian mortality related to wind turbine operations. The EIR requirement was held in abeyance while the County pursued options for mitigating avian mortality with state and federal agencies between 2007 and 2010, together with other wind energy operators in the Altamont Pass area. This process led ultimately to the preparation in 2013 and 2014 of a Program EIR for repowering the Altamont Pass area, but for which AWI did not yet have a project proposal. When AWI requested in 2013 to modify its CUP conditions, the County required the EIR to be prepared to address decommissioning impacts, ongoing operations and proposed modifications, with one alternative being the continued operation of turbines through 2018. The EIR was certified in July 2013, and to more fully evaluate the proposed extension to 2018, a Supplemental EIR was prepared in 2014. Staff recommended a partial extension to mid-2017, or restricted operations through 2018, as well as other conditions of approval and mitigation measures defined in the SEIR.

On February 2, 2015 the EBZA voted to certify the Supplemental EIR by a vote of two in favor and one opposed, and then voted to deny the application by a vote of three in favor and none opposed. Audubon California appealed the certification of the SEIR and AWI appealed the denial of the application.


On February 23, 2015, a proposed asset exchange was completed between AWI and Green Ridge Power (GRP, a subsidiary of NextEra Energy Resources, or NEER), which was intended to disentangle assets held by AWI and GRP on common properties located south of I-580, and which was also necessary to enable NEER to proceed with its repowering project south of I-580 (Golden Hills I). The asset exchange transferred approximately 295 turbines owned by GRP north of I-580 to AWI, for 295 turbines previously owned and operated by AWI south of I-580. As a result, AWI has now withdrawn from its application all of the CUPs (six) that apply to parcels south of I-580, and will operate turbines under two additional CUPs previously held only by GRP. There are now 12 CUPs proposed to be extended under common conditions of approval, all located north of I-580.

Separate Board letters were provided previously related to each of the two appeals, by AWI and by Audubon California, respectively, for a previously planned hearing of the appeals on March 10, 2015. Your Board requested the hearing be continued to allow for further discussions between the affected parties, which took place on Thursday March 12, 2015. Despite the additional discussions, the parties were unable to find common ground on the core issues. Your Board is now requested to hold a public hearing to consider the testimony of the Appellants and obtain public comment, and take an action regarding the appeals.

FINANCING:

The financial impact to the County as a result of this action is limited to administrative costs, which are included in the approved FY 14/15 Community Development Budget. There is no increase in net County cost as a result of this action.

Very truly yours,


for Chris Bazar, Director
Community Development Agency

cc: Susan Muranishi, County Administrator
Steven Manning, Auditor-Controller
Donna Ziegler, County Counsel
Richard Conway, County Administrator's Office
Brian Washington, Office of the County Counsel
U.B. Singh, CDA Finance Director
Altamont Winds, Inc.
Audubon California
East County Board of Zoning Adjustments