



CENTER FOR BIOLOGICAL DIVERSITY

January 8, 2007

Supervisor and President Keith Carson
Supervisor Gail Steele
Supervisor Scott Haggerty
Supervisor Alice Lai-Bitker
Supervisor Nate Miley
Clerk, Board of Supervisors

Alameda County Board of Supervisors
Alameda County Administration Building
1221 Oak Street
Oakland, CA 94607

Chris Bazar
Planning Director
Alameda County Planning Department
224 West Winton Avenue, Room 111
Hayward, CA 94544

Re: Draft Altamont Pass Settlement Agreement

The Center for Biological Diversity respectfully requests that the Board of Supervisors postpone action on the proposed settlement of the CEQA lawsuits, and that the Board refer the proposed settlement agreement to the Board's Scientific Review Committee for a full independent scientific analysis of the settlement terms and conditions. This matter is agenda item 8 on the Board's January 11, 2007 agenda.

The existing permit terms and conditions were the product of a very public process extending over a two-year period. That process included four hearings by the Board of Supervisors, three hearings by the East County Board of Zoning Adjustments, and nine public meetings of the Wind Power Working Group.

By contrast, negotiation of the settlement agreement occurred entirely in secret and without any transparency, with no public notice, input, or comment, and no independent scientific analysis. At 7:00 p.m. Friday evening, January 5, the Planning Department finally released the proposed settlement for public review, with final Board action scheduled only three business days later on January 11. The settlement agreement eliminates most of the mitigation measures required by the existing permit terms and conditions, including the winter seasonal shutdown, the repowering

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program, the Environmental Impact Report, the three-year and eight-year review of permit terms and conditions, and the off-site habitat mitigation requirement.

There is no compelling urgency that requires that the settlement agreement be approved by the Board of Supervisors with only three business day's public notice and with no independent scientific review. Unlike the existing permits, the settlement agreement forbids the Board of Supervisors from imposing any additional mitigation measures or otherwise modifying the permit terms and conditions until they expire in September 2018. *See* Settlement Agreement at ¶ 11; Draft Resolution at ¶¶ 8, 24, 25. Because Alameda County will be stuck with the consequences of the settlement agreement for the next eleven and two-thirds years, it should not be adopted until there has been adequate time for full public scrutiny and independent scientific analysis.

Accordingly, the Center for Biological Diversity respectfully requests that

- The Board of Supervisors postpone action on the proposed CEQA settlement agreement and continue it to a later hearing; and
- The Board of Supervisors refer the proposed CEQA settlement to the Board's Scientific Review Committee for an independent scientific review and recommendation. In particular, the Scientific Review Committee should determine whether the proposed settlement will result in a greater measurable reduction in actual raptor mortality than will the existing permit terms and conditions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Miller', written in a cursive style.

Jeff Miller
Bay Area Wildlands Coordinator
Center for Biological Diversity