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EXPANDED LAWSUIT OVER RAPTOR KILLS AT ALTAMONT PASS, CA WIND TURBINES CALIFORNIA ENERGY COMMISSION BLASTS WIND COMPANIES' SHAM MITIGATION PLAN

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FOR IMMEDIATE RELEASE November 1, 2004

Oakland, CA – The Center for Biological Diversity (CBD) today expanded legal action against wind power companies responsible for killing tens of thousands of eagles, hawks, falcons, owls and other protected birds at wind power turbines in the Altamont Pass Wind Resource Area (Altamont), in the San Francisco Bay Area of California. The Center filed a lawsuit in state court seeking restitution for the past killing of thousands of raptors in flagrant criminal violation of state and federal wildlife protection laws. Wind turbines at Altamont have killed an estimated 880 to 1,330 golden eagles, hawks, owls and other protected raptors each year for the past 20 years, in violation of California Fish and Game Code provisions as well as the federal Migratory Bird Treaty Act and the Bald Eagle and Golden Eagle Protection Act. The lawsuit alleges that these violations by wind power companies including FPL Energy, GREP, Green Ridge Power, Altamont Power, Enxco, Seawest Windpower, Windworks, Altamont Winds, and Pacific Winds are unlawful and unfair business practices under California's Unfair Competition Law (section 17200 of the California Business and Professions Code).

The Alameda County Board of Supervisors will hold an administrative appeal hearing for 29 permits covering more than 3,600 wind turbines at Altamont on November 4 in Oakland. CBD, Golden Gate Audubon Society, and Californians for Renewable Energy appealed the permits in November 2003 and January 2004 after Alameda County renewed them without conducting any public environmental review or requiring meaningful mitigation measures to reduce or compensate for bird deaths.

In August, the CBD suspended a similar lawsuit filed in federal court in January 2004 against the two largest wind power companies at Altamont, Florida-based FPL Energy and Danish wind power company NEG Micon and their subsidiaries, to allow the wind power companies to respond to mitigation measures proposed by the California Energy Commission (CEC) that would reduce bird kills and compensate for impacts to raptor populations. In August 2004 the CEC published a comprehensive report on bird kills at Altamont, recommending wind power companies implement a suite of mitigation measures, including re-powering (replacing existing numerous small turbines with

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fewer large turbines), relocating and shutting down killer turbines, and compensating for ongoing bird kills by preserving off-site habitat for birds of prey.

Wind power companies proposed a draft mitigation plan this month that would experimentally apply some of the CEC recommendations on a very limited volunteer basis at a small percentage of the turbines at Altamont. The CEC sent a letter last week to consultants for the wind power companies blasting this draft mitigation plan as inadequate, noting it “does not apply the mitigation measures in the manner recommended by [the CEC] to directly reduce bird kills.” Furthermore, according to the CEC letter “there is no clearly stated goal of the Plan, such as ‘reduce bird kills by 50% Altamont-wide within 24 months’...it appears likely that the research will provide little new information that can be defended statistically or scientifically...the Plan fails to relocate/remove turbines based on the statistically sound biological conclusions of [the CEC]...instead, the Plan bases the limited implementation of this technique on what appears to be operator convenience.”

“The wind power companies and the County have had a year since our permit appeal, during which one thousand more birds of prey have been needlessly killed, and should have used the time to conduct a proper environmental review,” said Jeff Miller, spokesperson for CBD. “The County is now pushing a sham plan drafted by the wind power companies that does not measure up to the CEC recommendations and will clearly fail to reduce the massive bird kills at Altamont. It would apply mitigation measures to only a small number of turbines on an experimental basis, would not relocate or shut down a significant number of killer turbines, and contains no tangible commitment to off-site mitigation. The County should grant our appeal and impose the CEC recommendations.”

“We absolutely support wind power, but it is long past time for turbine owners to make a serious effort to stop the raptor slaughter at Altamont - their negligence is causing damage to the whole wind power industry,” added Miller. According to wind industry reports and publications such as Wind Power Weekly, the Altamont Pass fiasco and the decades of foot-dragging by the windpower companies has tainted public perception of wind energy and hampered wind power development, as concerns about bird impacts have delayed or discontinued other wind facilities.

The focus of the new lawsuit is to set aside valuable raptor habitat as compensation for past deaths of thousands of birds of prey, a necessary action which is expressly excluded from the plan proposed by industry and the County. “The wind industry profits from tax credits, government cash grants funded by surcharges imposed on California’s electricity consumers, and sale of power at above-market rates based on the perception that it provides ‘green’ energy to consumers,” said Richard Wiebe, attorney for the plaintiffs. “The industry must be held accountable for illegally killing thousands of eagles, hawks, falcons, and owls in violation of wildlife protection laws, especially given its decades of inaction in addressing these massive ongoing bird kills,” added Wiebe. “For 20 years, they’ve racked up a massive debt to California’s citizens and its environment. It’s time for that debt to be paid.”

More information about the impacts of wind turbines on raptors at Altamont Pass can be found at www.biologicaldiversity.org/swcbd/programs/bdes/altamont/altamont.html. The CEC report is available at www.energy.ca.gov/pier/reports/500-04-052.html