



Center for Biological Diversity

*protecting and restoring natural ecosystems and imperiled species
through science, education, policy, and environmental law*

CA ENERGY COMMISSION REPORT URGES MITIGATION MEASURES AND HABITAT PRESERVATION FOR MASSIVE BIRD KILLS AT ALTAMONT PASS WIND FARMS

**LEGAL ACTION AGAINST WIND FARMS PUT ON HOLD TO ALLOW
ADOPTION OF RECOMMENDED MEASURES**

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Livermore, CA - The Public Interest Energy Research Program of the California Energy Commission (CEC) published a report by raptor experts this week that recommends a suite of mitigation measures to be implemented by windpower companies to reduce as much as possible and to compensate for massive bird kills at wind turbines in the Altamont Pass Wind Resource Area (APWRA). The CEC recommendations add to the growing public and agency outcry that the windpower companies finally address the deaths of thousands of eagles, owls, hawks, and other raptors at APWRA wind turbines that they have been causing for decades. The CEC report estimates that up to 1,300 birds of prey are killed each year at the APWRA, including 75-116 golden eagles, 99-380 burrowing owls, and 209-300 red-tailed hawks. This means that in the 23-year existence of the APWRA, more than 20,000 eagles, hawks, and owls have been killed, in violation of federal and state wildlife law, an astonishing and tragic slaughter of these magnificent birds of prey. The windpower companies have never provided any compensation for their illegal killing of raptors, have not preserved a single acre of habitat to insure the survival of these raptor species, and have not taken any effective mitigation measures to reduce the number of raptors they kill.

The CEC report concludes that implementing a number of feasible mitigation measures, including re-powering, or replacing existing numerous small turbines with fewer large turbines, may reduce bird deaths 20-40% if turbines are placed on the tallest practicable towers and sited according to recommendations in the report. The report cautions that significant bird kills will continue even with these changes and recommends that "regionally important wildlife habitat" off-site be protected as compensation. The U.S. Fish and Wildlife Service and California Department of Fish and Game also have recently recommended that windpower companies should protect raptor habitat off-site as mitigation for the huge number of raptor deaths they have caused and are continuing to cause.

"The CEC report makes it clear that on-site mitigations and re-powering projects will not eliminate the raptor death zone at Altamont, and that significant numbers of raptors will continue to be killed even after those measures are implemented," said Jeff Miller, spokesperson for CBD. If we are going to continue to produce wind power at Altamont and preserve local and regional raptor populations,

the windpower companies have to face up to their responsibility to purchase significant amounts of raptor habitat nearby. The habitat debt from past kills alone is already quite high.”

In response to the report, the Center for Biological Diversity (CBD) announced today it is suspending the federal court lawsuit it filed in January 2004 against FPL Energy and NEG Micon, the two largest windpower companies at APWRA. The lawsuit alleges that the windpower companies’ bird kills, which violate the criminal provisions of the federal Bald and Golden Eagle Protection Act, the federal Migratory Bird Treaty Act, and numerous criminal prohibitions of the California Fish and Game Code, are unlawful and unfair business practices under the state Business and Professions Code. The lawsuit was intended to force windpower companies to implement mitigation measures to reduce bird kills and to purchase land or conservation easements to protect habitat for rare birds of prey affected by the turbines as restitution for their ongoing destruction of public wildlife resources.

“Turbines continue to illegally kill thousands of supposedly protected birds of prey each year at Altamont and this study reveals the problem is far worse than any previously published report,” stated Miller. “The CEC report concurs that off-site raptor habitat protection is needed to compensate for unavoidable bird losses and it proposes workable on-site mitigation measures to reduce avoidable bird kills. Since the defendants in our lawsuit and other wind companies have indicated a willingness to follow the recommendations of the CEC report, we are putting our legal action on hold for now to see whether turbine owners intend to implement these measures and live up to their promises.”

“We decided to voluntarily dismiss the lawsuit without prejudice to see whether the windpower companies are serious about fully and quickly implementing the CEC recommendations in good faith and living up to their obligations under federal and state wildlife protection laws,” said Richard Wiebe, attorney for the CBD. “Although the case is on hold, all of our legal options, including refileing the lawsuit, remain open. The ball is in the windpower companies’ court to speedily and finally solve the problem of massive raptor deaths that they created decades ago and to finally bring themselves into compliance with federal and state law. No other industry would dream of, or would be permitted to, violate federal and state environmental laws for decades the way this industry has.”

In addition, the CBD, Golden Gate Audubon Society, and CALifornians for Renewable Energy have an appeal of the permit renewals for the majority of the existing wind turbines at APWRA pending before the Alameda County Board of Supervisors on September 2. The groups appealed the permits in November 2003 after Alameda County renewed them without conducting any public environmental review or requiring any meaningful mitigation measures to reduce or compensate for bird deaths.

The magnitude of bird kills at APWRA has been known since at least 1988, when the first of many studies of raptor mortality was published. According to wind industry reports, 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 has delayed or discontinued other wind facilities.

The CEC report, *Developing Methods to Reduce Bird Mortality in the Altamont Pass Wind Resource Area*, is available on the CEC web site at <http://www.energy.ca.gov/pier/reports/500-04-052.html>. More information about the impacts of wind turbines on raptors at Altamont Pass can be found on the CBD web site at <http://www.biologicaldiversity.org/swcbd/programs/bdes/altamont/altamont.html>