SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

528B

FROM: TLMA - Planning Department

SUBMITTAL DATE:
July 10, 2007

SUBJECT: Resolution No. 2007-354 to certify Environmental Impact Report No. 487, deny appeals of Planning Commission decision to approve project, approve Fast Track Commercial WECS Permit No. 116 and approve Fast Track Variance No. 1797; Fifth Supervisorial District; Pass & Desert Zoning District / Western Coachella Valley Area Plan.

BACKGROUND: Commercial WECS Permit No. 116, Variance Case No. 1797, and Environmental Impact Report No. 487 were tentatively approved by the Board of Supervisors on June 19, 2007.

RECOMMENDED MOTION:

CERTIFICATION of **ENVIRONMENTAL IMPACT REPORT NO. 487**, which has been completed in compliance with the EIR Guidelines and the Riverside County Rules to Implement CEQA, based upon findings contained in Resolution No. 2007-354; and,

DENIAL of the **APPEALS** filed by the Estate of Reba Jo Wolf, by and through its attorney David Cosgrove, Esq., and by Seven Fortune Partners II, based upon the findings contained in Resolution No. 2007-354; and,

APPROVAL of **FAST TRACK COMMERCIAL WECS PERMIT NO. 116,** for up to 20 wind turbines not greater than 327 feet in height, subject to conditions of approval, and based upon the findings contained in Resolution No. 2007-354; and,

APPROVAL of **FAST TRACK VARIANCE CASE NO. 1797,** to reduce scenic setbacks from 1320 feet to not less than 740 feet, and reduce wind access setbacks from 1007 feet to not less than 360 feet, subject to conditions of approval, and based upon the findings contained in Resolution No. 2007-354.

Mark J. Balyo for
Ron Goldman
Planning Director

RG:jo

REVIEWED BY EXECUTIVE OFFICE
DATE 7/11/07
Tina Grande
Departmental Concurrence

☐ Policy ☐ Policy
☐ Consent ☐ Consent
Dep't Recomm.: Per Exec. Ofc.:

Prev. Agn. Ref. | **District:** Fifth | **Agenda Number:** 3.78

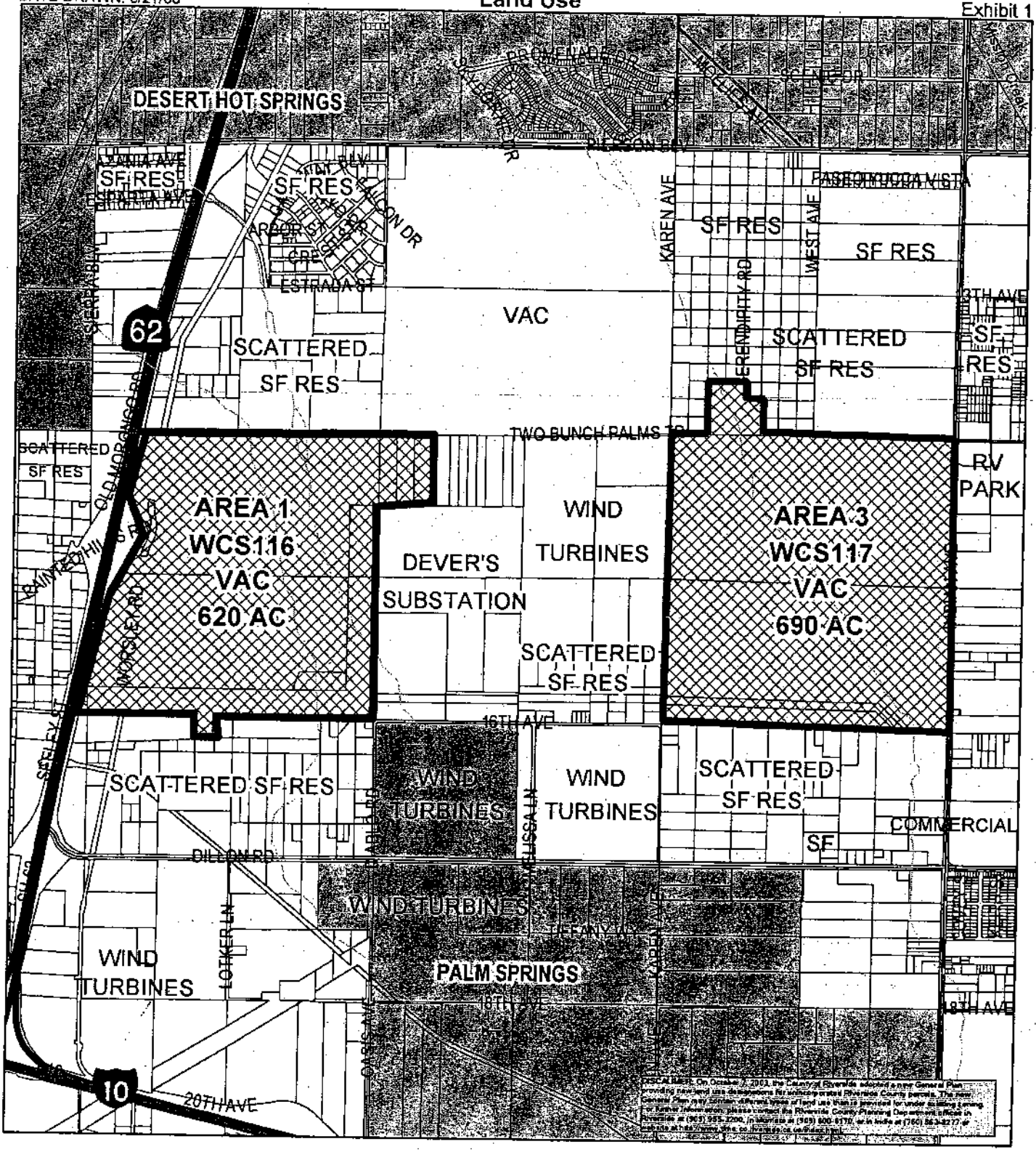
Supervisor Ashley
District 5

DATE DRAWN: 6/21/06

CZ7346 WCS117 VAR1798 GPA811
CZ07449 WCS116 VAR1797
Land Use

Planner: Jay Olivas
Date: 9/6/06

Exhibit 1



RIVERSIDE COUNTY PLANNING DEPARTMENT

Zone District: Pass & Desert

Township/Range: T3SR4E

Section : 5

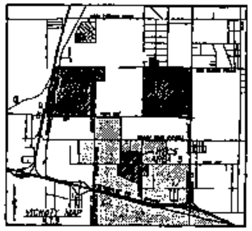
0 1,500 3,000 6,000 9,000 Feet

ASSESSORS BK. PG. 668 9-11

THOMAS BROS.PG 696 C6

AREA 1
COMMERCIAL WECS & VARIANCE REQUEST
SITE LAYOUT

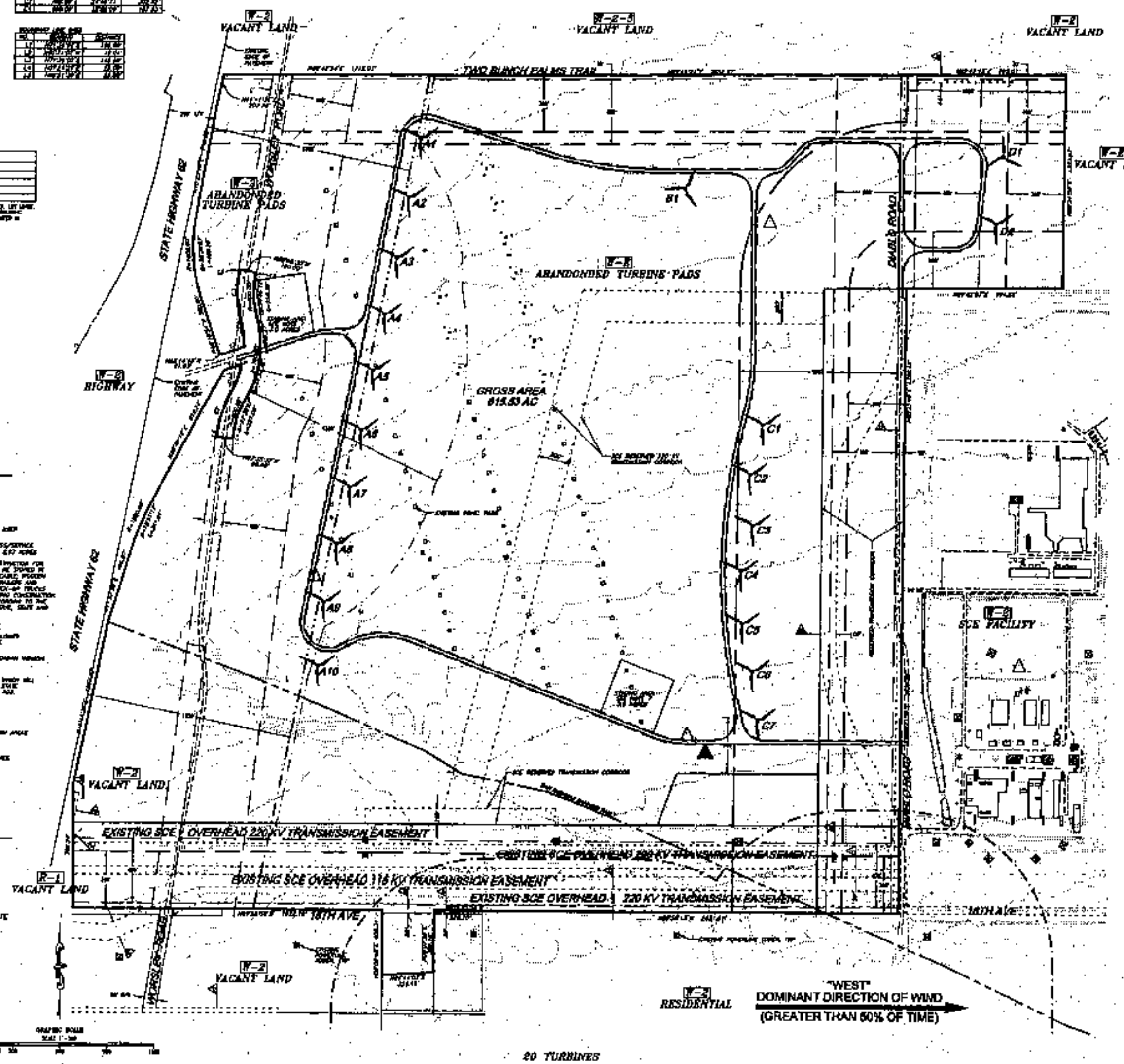
LOCATED IN OF A PORTION OF SECTION 4, 5 AND 8, TOWNSHIP 3 SOUTH, RANGE 4 EAST AND SECTION 34, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN



SHEET INDEX

SHEET 1	SITE LAYOUT
SHEET 2	DISTURBANCE AND GRADING PLAN
SHEET 3	NOTES AND DETAILS

VARIANCE TABLE



NOTES

LEGEND

- PROPERTY LINE
- EXISTING SERVICE & ACCESS ROADS
- PROPOSED SERVICE & ACCESS ROADS
- EXISTING METEOROLOGICAL TOWER
- PROPOSED METEOROLOGICAL TOWER
- PROPOSED MITSUBISHI MWT62/1000A WECS SITE
- POSSIBLE ROAD DEDICATION AND SETBACK
- SAN ANDREAS FAULT
- COUNTY LOT LINE SAFETY SETBACK
- COUNTY WIND SETBACK
- COUNTY SCENIC HWY 62 SETBACK (EOP)
- COUNTY SCENIC HWY 62 SETBACK (ROW)
- COUNTY HOME SAFETY SETBACK
- EXISTING ZONING
- EXISTING LAND USE

AREA 1 EXCEPTIONS

Underground Service Alert
Call: TOLL FREE 1-800 227-2600

Dillon Wind LLC

NOTE:

COUNTY OF RIVERSIDE
TRANSPORTATION DEPARTMENT

STANTEC CONSULTING INC.
73-733 FRED WARING DRIVE
SUITE 100
PALM DESERT, CA 92260
760.346.9844

COUNTY OF RIVERSIDE
COMMERCIAL WECS & VARIANCE REQUEST
AREA 1
SITE LAYOUT

FOR: DILLON WIND LLC

E3607

SHEET 1 of 3

Board of Supervisors **County of Riverside**

RESOLUTION NO. 2007-354
CERTIFYING ENVIRONMENTAL IMPACT REPORT NO. 487 AND APPROVING FAST TRACK AUTHORIZATION 2005-17, COMMERCIAL WECS PERMIT NO. 116, AND VARIANCE CASE NO. 1797

WHEREAS, pursuant to the provisions of Government Code Section 65000 et.seq., a public hearing was held before the Riverside County Board of Supervisors in Riverside, California on June 19, 2007 and before the Riverside County Planning Commission in La Quinta, California on April 18, 2007 and in Coachella, California on May 16, 2007 to consider Fast Track Authorization 2005-17, Commercial WECS Permit No. 116 (WECS 116) and Variance Case No. 1797; and

WHEREAS, this project and related projects (Commercial WECS Permit No. 117, General Plan Amendment No. 811, Change of Zone Nos. 7346 and 7449, and Variance Case No. 1798 in the unincorporated areas of Riverside County, and City of Palm Springs CUP 5.115 within the city limits of that city) were appropriately and comprehensively evaluated in Environmental Impact Report No. 487 (EIR No. 487); and

WHEREAS all the procedures of the California Environmental Quality Act (CEQA) and the Riverside County CEQA Implementing Procedures have been met, and the EIR No. 487, prepared in connection with WECS 116 and related cases (referred to alternatively herein as "the project"), is sufficiently detailed so that all the potentially significant effects of the project on the environment and measures necessary to avoid or substantially lessen such effects have been evaluated in accordance with the above-referenced provisions and procedures; and,

WHEREAS, the approval of the project by the Riverside County Planning Commission on May 16, 2007, was appealed by two adjacent landowners to the County Board of Supervisors pursuant to the procedures set forth in the County of Riverside County Ordinance No. 348, Subsection 18.26(f), thereby resulting in a de novo hearing on all aspects of the project before the Riverside County Board of Supervisors on June 19, 2007,

WHEREAS, the matter was discussed fully with testimony and documentation presented by the public, the applicant, the appellants and affected government agencies;

FORM APPROVED COUNTY COUNSEL
JUL 09 2006
BY Minh C. Tran

WHEREAS, the Board of Supervisors subsequently moved and voted to deny the appeals and to approve the project, and

WHEREAS, the matter was discussed fully with testimony and documentation presented by the public and affected government agencies; and,

BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED by the Board of Supervisors of the County of Riverside, in regular session assembled on July 17, 2007, that:

A. **Fast Track Commercial WECS Permit No. 116** (WECS 116) consists of a project to install and operate up to 20 wind turbines (Mitsubishi MWT62) a height of not greater than 330 feet, plus a meteorological tower and temporary construction staging area, more specifically located easterly of State Highway 62/Worsley Road, northerly of 16th Avenue, and westerly of Diablo Road, which area is also known as Area 1 in the maps contained in the Project EIR.

B. WECS 116 is associated with **Fast Track Variance Case No. 1797 (VAR 1797),** which consists of a proposal to reduce scenic resources setbacks in Area 1 from a ¼ mile or 1320 feet along State Highway 62 to not less than 740 feet (Turbines A-1 through A-9) as measured from the edge of the right-of-way line of State Highway 62 along the westerly boundary of WECS 116; and reduce wind access from five (5) times rotor diameter (1007 feet) to not less than 360 feet (Turbines C-1 through C-7, Turbines D-1, D-2) as measured along the easterly boundary of WECS 116.

BE IT FURTHER RESOLVED by the Board of Supervisors that it has reviewed and considered the EIR No. 487 in evaluating WECS 116 and related cases, that the EIR is an accurate and objective statement that complies with the California Environmental Quality Act and reflects the County's independent judgment, and that the EIR is incorporated by reference in its entirety.

BE IT FURTHER RESOLVED by the Board of Supervisors that the following environmental impacts associated with WECS 116 and related cases are potentially significant unless otherwise indicated, but each of these impacts will be avoided or substantially lessened by the identified mitigation measures:

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A. Land Use and Policy Analysis

1. Impacts:

The project segment containing WECS 116 is located within the Western Coachella Valley Area Plan, with land use designation Rural Desert. Zoning designations are W-E (Wind Energy Resource Zone). The entire WECS 116 site is within the Wind Energy Resource Zone (W-E Zone)and is consistent with the W-E designation in that it implements the County's objective for locating wind energy facilities in that zone. On November 9, 2006, the Riverside Airport Land Use Commission (ALUC) found the project to be consistent with the Countywide Policies of the 2004 Riverside County Airport Land Use Compatibility Plan, subject to a number of conditions. As disclosed in the EIR, the project is consistent with all applicable policies and standards in the Plan and Zoning ordinances, with the exception of the requested Scenic Resources and Wind Access variances, discussed in detail later in this resolution.

2. Mitigation:

No significant impacts to land use are identified and thus no mitigation is recommended (the following sections identify mitigation actions in related topical areas).

B. Air Quality

1. Impacts:

Construction Emissions

Construction would occur in a phased fashion, with a maximum of two to three acres impacted on a daily basis. Wind turbines and access roads would be constructed "at grade" without significant grading or creation of manufactured slopes. Typical construction equipment would consist of a grader for road and pad construction, a backhoe for pad foundation excavation, a trencher for construction of the underground electrical

collector cable system, a crane for erection of the turbine structures, several diesel trucks for delivery of turbine assemblies to pad sites, and tender vehicles (service trucks, welder trucks, water trucks, etc.). Appendix D, Table D-6 of the EIR presents a screening calculation for construction related emissions. These screening level calculations indicate that the construction emissions are well below the AQMD significance levels.

Operational Emissions

Once operational, the site would require minimal supervision, with site personnel composed primarily of maintenance staff. These personnel are expected to generate approximately 20 average vehicle trips per day. This trip generation rate is comparable to the vehicle trips generated by 2 or 3 single family homes. When compared to the average daily vehicle miles traveled (VMT) of Riverside County (*i.e.,* 34,889,836 VMT/day (per Table A9-14-A, SCAQMD 1993; "CEQA Handbook", total of passenger cars and trucks)), the Project VMT is very small, and the resultant emissions would be insignificant. Per the AQMD CEQA handbook, vehicle traffic related emissions from a residential development of approximately 160 homes would be considered to have a significant impact on air quality. The impact from the operational phase of the Project is estimated to be equivalent to the vehicle trips from 2-3 residential homes, or approximately 1.3% to 1.9% of the significance level.

The Project would not have any significant unavoidable adverse impacts. Wind energy is classified as a renewable resource, and as such, energy generated from the proposed wind Project would offset the demand for energy produced by conventional fossil-fueled power plants. The project is calculated to annually displace approximately 186 million pounds of CO2, 9.7 million pounds of SO2, and 5.8 million pounds of NOx.

2. Mitigation

Fugitive dust and air quality control techniques include, but are not limited to, use of watering or chemical dust suppressants on disturbed areas, minimizing areas of disturbance through construction planning and execution, improving roads and driving areas, stabilization of stockpiles, sweeping and/or washing of trackout areas, covering of trucks or provisions for minimum freeboard heights when hauling loose materials, limitations on vehicle speeds on construction sites and access roads, halting of construction under high wind conditions, etc. Prior to issuance of a grading permit, the Applicant is required to submit, a Project-specific dust control plan prepared in compliance with AQMD Rule 403-1, which addresses construction and post-construction mitigation measures for fugitive dust control. Because the Project is required to follow the regulations of the AQMD, the Project would not have a significant effect on either short-term (construction period), or long-term (operational period) air quality.

C. Biological Resources

1. Impacts:

The project will not have significant adverse impacts to plant and wildlife species or other biological resources.

Implementation of the proposed project would result in some temporary and permanent impacts to wildlife habitat, including the permanent loss of approximately 27 acres of habitat (less than 2% of the approximately 1500 acre Project area) through the removal of native vegetative cover and loss of undisturbed and disturbed Sonoran creosote bush scrub communities. However, the 27 acres of permanent disturbance is not considered to be locally or regionally significant because of the small amount of habitat that will be lost, both in total area and relative to the amount of habitat that will remain on-site.

The potential for bird collisions with wind turbines exists with any wind project. However, the project would not have a significant impact on birds. McCrary et al. (1983, 1984) estimated that 69 million birds migrate through the Coachella Valley annually, 32 million during the spring migration and 37 million during the fall migration. During their study, 38 avian fatalities were found comprised of 25 species, including 15 passerines, seven waterfowl, two shorebirds, and one raptor. Considering the large number of passerines migrating through the area relative to the number of passerine fatalities, the authors concluded that this level of mortality was biologically insignificant (McCrary et al. 1986a). [1]

Avian fatality searches were also conducted as part of the Avian Monitoring and Risk Assessment at the San Gorgonio Wind Resource Area study prepared by Anderson during two study periods (March 1997 to May 1998; August 1999 to August 2000). The full study is available at http://www.nrel.gov/wind/pdfs/38054.pdf. During this study prepared by Anderson et al., 32 avian fatalities were documented including nine waterbirds, two raptors, one corvid, three passerines, 10 rock pigeons or morning doves, and seven unidentified birds in 1997 and 1998. These bird carcasses were found during quarterly searches of 138 older turbines (mostly <250 kW), which roughly translates to an avian fatality rate of 0.23 birds/turbine/year. During the surveys in 1999 and 2000, 26 fatalities were documented including nine waterbirds, two raptors, two corvids, four

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[1] McCrary, M.D., R.L. McKernan, and R.W. Schreiber. 1986. San Gorgonio Wind Resource Area: Impacts of commercial wind turbine generators on birds, 1985 data report. Prepared by Los Angeles Co. Nat. Hist. Mus, for Southern Calif. Edison, Res. and Development, Rosemead.

McCrary, M.D., R.L. McKernan, W.D. Wagner, and R.E. Landry. 1984. Nocturnal avian migration assessment of the San Gorgonio Wind Resource Study Area, fall 1982. Prepared by Los Angeles Co. Nat. Hist. Mus, for Southern Calif. Edison, Res. and Development, Rosemead.

McCrary, M.D., R.L. McKernan, R.E. Landry, W.D. Wagner, and R.W. Schreiber. 1983. Nocturnal avian migration assessment of the San Gorgonio Wind Resource Study Area, spring 1982. Prepared by Los Angeles Co. Nat. Hist. Mus., for Southern Calif. Edison, Research and Development, Rosemead

passerines, five rock pigeons, and three unidentified birds. These fatalities were found during searches of 60 turbines (mostly <250 kW), which roughly translates to 0.43 avian fatalities/turbine/year. The waterfowl and shorebird mortality generally occurred where water was present in the vicinity of the wind resource area (for example, near the aquifer recharge basin), that attracted large numbers of waterfowl and shorebirds. Estimates of mortality adjusted for searcher bias, scavengers, and wind were not conducted for this study.

Standardized fatality monitoring results from six western projects (including one in California) reported by Strickland and Johnson (2006) and Kerlinger et al. (2006) were conducted in projects containing turbines in the 1 MW to 1.8 MW size range, which are equal to or larger in size than the turbines proposed for the Dillon project. The estimated fatality rates for these projects ranged from 0.95 to 2.92 birds per MW per year. Because the avian survey data collected at the site shows bird use at the very low end of rates observed at other wind projects for which similar data were collected (See Table 9 of "Avian Use Surveys" technical report, which is Appendix B of the FEIR), it is very likely that overall avian mortality will be at the low end of that range.

The most recent avian mortality monitoring conducted in California using modern search protocols has been at the High Winds Wind Project in Solano County. Kerlinger et al. (2006) reported an average of 1.36 bird fatalities per MW per year; using these rates, this would result in a predicted rate of 61 bird fatalities per year at the proposed 45-MW Dillon project. Kerlinger et al. (2006) also reported the fatality rate of night migrants during fatality monitoring at the High Winds project was less than 1 bird per turbine per year.

Based on the studies referenced above, there is sufficient data to suggest that avian mortality will be low. Avian fatality at the Dillon project site is expected to fall within the range of 1 to 3 avian fatalities/turbine/year, and is most likely to be at the low end of that range. No avian fatalities have been found at the nearby Mountain View III wind project. Wind operators are trained to report any dead birds found at the site, and none have been seen since the project began operating in December 2003. The project proponent, PPM Energy has conducted post-construction mortality monitoring for birds and bats at most of its projects (for example, the 150-MW Shiloh Wind Project in Solano County), and proposes to conduct a year of post-construction bird and bat mortality monitoring at the Dillon Project to confirm the predicted low bird and bat mortality.

Bat impacts at the Dillon project are also expected to be very low due to past studies that show low bat use in the area. The Dillon project area does not have open water, tree-roosting habitat, or other habitat features that would attract bats.

The project was also evaluated for potential impacts to sensitive species, including the Desert Tortoise, Le Conte's Thrasher and Burrowing owls. Potential impacts will be reduced to a level less than significant with appropriate mitigation.

2. Mitigation:

Prior to grading permit issuance, trenching, or any other form of ground disturbance a re-vegetation plan shall be submitted to Riverside County's Environmental Programs Department (EPD) and the Planning Department for review and approval.

Prior to grade permit issuance, the applicant shall submit proposed survey protocols for the one year of post construction avian and bat monitoring to the Riverside County's EPD, Planning Department, and to the wildlife

agencies (California Department of Fish and Game (CDFG) and United States Fish and Wildlife Service (USFWS) for review. Monitoring shall start once the project is constructed and operations have commenced and will continue for one full year (one full year from the first date of operation). Once one year of monitoring is complete, a report must be prepared and submitted to the EPD and Planning Department within 90 days from the final survey date for County review. As stated in Section 6.3.3.4.5 of the FEIR, dated March 2007, the Dillon project has a predicted rate of 61 bird fatalities per year for a 45-MW facility. If the results of the one-year post construction fatality monitoring report indicates that the number of bird fatalities is greater than 61 per year then a second year of post construction avian fatality monitoring may be requested. Reports shall be submitted to the wildlife agencies (CDFG & USFWS) and discussion and review of the differences will be evaluated to determine if additional surveys are warranted.

For Burrowing owls, within 30 days prior to the issuance of a grading permit, a pre-construction presence/absence survey for the burrowing owl shall be conducted by a qualified biologist within the proposed areas of disturbance as well as within the 150 meter buffer area. The results of this presence/absence survey shall be provided in writing to the EPD and Planning Department for review. To avoid potential impacts, no disturbance shall occur within 50 meters of occupied burrows during the non-breeding season (September 1 through January 31) or within 75 meters during the breeding season (February 1 through August 31), unless a CDFG approved biologist, with written approval from CDFG, confirms through non-invasive methods that the birds have not begun egg-laying and incubation or juveniles from the occupied burrows are foraging independently and are capable of independent survival. During the breeding season pre-

construction surveys shall be conducted within one week of any ground disturbance. If destruction of occupied burrows is unavoidable all mitigation and relocation must follow CDFG approved protocol and timelines. Mitigation and burrow creation must be implemented and completed prior to issuance of a grading permit. All surveys, mitigation proposals, and survey findings must be submitted to EPD and CDFG for review and approval. Prior to final inspection, a report must be submitted to Riverside County's Environmental Programs Department (EPD) and Planning Department indicating that the project has been re-vegetated according to the criteria and recommendations outlined in the approved re-vegetation plan.

For Le Conte's thrashers, prior to removal of vegetation or any ground disturbance a vegetation clearance survey for Le Conte's Thrasher must be conducted by a qualified biologist, and a survey report must be submitted to EPD, Planning Department, and CDFG and USFWS for review. If Le Conte's Thrasher nests are observed during the survey, CDFG, USFWS, and EPD must be immediately consulted regarding a Le Conte's Thrasher mitigation and monitoring report. This survey is valid for 30 days; if a grading permit is not issued within that time frame an additional survey may be required.

For Desert tortoises, prior to grading a survey must be conducted by a qualified biologist and the survey results must be submitted to EPD, Planning Department, and CDFG and USFWS for review. This survey is valid for 30 days; if a grading permit is not issued within that time frame an additional survey may be required.

If any tortoise is encountered, wildlife agencies, along EPD and Planning Department, shall be informed and a desert tortoise construction monitoring

and management report shall be submitted to these agencies for review. If desert tortoise is observed on site at any time, the qualified biologist shall conduct full-time monitoring until the completion of the project and specific desert tortoise guidelines shall be followed. In addition, a report summarizing the findings must be submitted to EPD and the wildlife agencies prior to final inspection.

D. Cultural and Paleontological Resources

1. Impacts:

Although the cultural resources survey did not uncover the presence of archaeologically significant resources, it is possible that previously undiscovered, buried prehistoric or historic resources may be encountered during grading activities on- and off-site resulting in potentially significant impacts to historic resources, including resources that may be important to the Agua Caliente Band of Cahuilla Indians.

Based on literature and records searches, ground disturbance in the form of clearing, excavation, and/or installation of underground facilities required for the project is not likely to adversely impact significant nonrenewable paleontological resources.

2. Mitigation:

Prior to the issuance of grading permits, the project applicant shall enter into a pre-excavation agreement with the Agua Caliente Band of Cahuilla Indians. The agreement shall document archeological monitoring requirements and specify the disposition of any significant resources discovered during monitoring.

Prior to issuance of grading permits, a qualified archaeologist shall develop a mitigation plan and a discovery clause/treatment plan, which will include mitigation monitoring to be implemented during earthmoving activities on the project. The treatment plan shall be developed in consultation with the

Agua Caliente Band of Cahuilla Indians and in accordance with the pre-excavation agreement and shall account for treatment of any archaeological remains and associated data uncovered by brushing, grubbing, or earthmoving. The treatment plan shall allow for the recovery and subsequent treatment of any archaeological remains and associated data uncovered by brushing, grubbing, or earthmoving.

If archaeological remains are found by the archaeological monitor, the archaeological monitor in consultation with the Native American observer shall have the authority to require that earthmoving shall be temporarily diverted away from the deposits until they have been evaluated, recorded, excavated, and/or recovered as necessary. Earthmoving shall not be allowed to proceed through the deposit site until the archaeological supervisor, in consultation with the Agua Caliente Band of Cahuilla Indians and the County, determines that the artifacts are recovered and/or the site mitigated to the extent necessary.

If possible human remains are encountered during any earthmoving activities, all work shall stop in the area in which the find(s) are present, and the Riverside County Coroner shall be immediately notified. In accordance with State law, the Native American Heritage Commission (NAHC) shall be notified in the event that remains are determined to be, in fact, human and of Native American decent. In some instances, grave remains may also include artifacts found in association with a burial.

Any recovered archaeological resources shall be identified, recorded, mapped, and artifacts catalogued in accordance with County of Riverside requirements. Examination by an archaeological specialist shall be conducted where necessary, dependent on the artifacts, features, or sites that are encountered. The specialist shall identify, date, and/or determine

significance potential.

The project archaeologist shall submit a written report to the Planning Department of the results of the initial consultation, and the final results of the sub-surface cultural resource recovery plan, if recovery was deemed necessary. The written report shall be submitted prior to final inspection and certification of project grading.

E. Geology/Soils and Geotechnical Resources

1. Impacts:

The primary geologic hazard relative to site development is severe ground shaking from earthquakes originating on nearby faults. A major seismic event above magnitude 7 originating on the local segment of the San Andreas Fault Zone would most likely be the cause of substantive ground shaking activity at the sites within the estimated design life of the proposed development. Because the Project does not propose any habitable structures, the most serious potential result of earthquake activity would be structural damage. Engineered design and earthquake resistant construction increase safety and allow development within seismic areas.

The majority of turbine sites within the Project do not lie within a currently delineated State of California, Alquist Priolo (A-P) Earthquake Fault Zone. However, a few turbines within WECS 116 (A9, A10 and A11) do lie within the A-P Earthquake Fault Hazard Zone, and turbine A11 (Area 1) appeared to be astride the main trace of the Banning Branch of the San Andreas fault line. Based on the results of the geotechnical studies done for the Draft EIR, turbine A11 was deleted. Deletion of turbine A11, implementation of the geotechnical engineering recommendations in the site specific geotechnical reports, and construction of proposed structures in accordance with the Uniform Building Code (UBC) will ensure that potential ground shaking impacts will not result in a significant impact.

2. Mitigation:

All grading shall be performed in accordance with Riverside County requirements and with the site specific geotechnical reports. The measures recommended by the site-specific geotechnical report shall be identified on applicable grading plans and shall be implemented to the satisfaction of the County Geologist. Prior to the issuance of grading permits, the County Geologist shall review and approve all grading plans. County Ordinance No. 457, and all other relevant laws, rules and regulations governing grading in Riverside County shall be observed.

F. Navigational Interference

1. Impacts:

The FAA completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77. This aeronautical study revealed that the project does not exceed obstruction standards and would not be a hazard to air navigation provided the project is lit and marked according to FAA lighting standards and a Notice of Actual Construction is completed and returned to the FAA within five days after the construction reaches its greatest height. On November 9, 2006, the Airport Land Use Commission (ALUC) reviewed the project for consistency with the 2004 Riverside County Airport Land Use Compatibility Plan. At that meeting the ALUC found that the project is consistent with the Plan subject to the Conditions attached to the approval.

2. Mitigation:

As a condition of project approval, the County shall require that the project permit all times comply with Federal Aviation Administration rules and regulations. Should additional lighting and coloration be required, the permit holder shall obtain comments from the Planning Director prior to the

installation thereof. The permit holder shall remain in compliance with the directives of the Riverside County Airport Land Use Commission's letter dated January 22, 2007, a copy of which is on file with the Riverside County Planning Department.

G. Noise

1. Impacts:

Short-term acoustic impacts would be associated with construction activities necessary to implement the proposed Project. These noise levels would be higher than the ambient noise levels in the Project area today, but would subside once construction is completed. Two types of noise impacts are considered during the construction phase. First, the transport of workers and equipment to the construction site would incrementally increase noise levels along the roadways leading to and from the site. Second, the noise generated by the actual on-site construction activities.

Because Project construction traffic would only generate approximately 50 to 55 daily trips and would occur within an area impacted by existing freeway and highway noise, noise impacts would not differ substantially from those already experienced along Project area roadways. Considering that the construction noise levels associated with the proposed facilities would be temporary and the Project operator would adhere to local noise ordinances, the construction noise would be less than significant.

The project was also evaluated for operational noise impacts. Based on current noise standards for Riverside County and the City of Palm Springs, noise at habitable structures from wind turbine operations on the proposed Project would be below the threshold of significance; i.e., modeling indicates that noise would not exceed 55 dB within 50 feet of residences with turbines under International Electrotechnical Commission, (IEC) reference wind conditions 8 m/s at 10 meters elevation. At high wind

speeds, noise levels near the northeasterly corner of the Project are computed to be within approximately 2 dB of the significance threshold of 60 dBA under high wind speed conditions. Further, the residences in this area are directly downwind of the turbine row for the predominant wind condition.

2. Mitigation:

Construction traffic, and later on-going operation and maintenance traffic, associated with this commercial WECS permit, shall utilize off-site legal access, as approved by the Director of the Transportation Department. Construction, operation and maintenance traffic shall be restricted to the hours between 6:00 a.m. to 10:00 p.m., except as required for emergency maintenance to the WECS array, and shall not present public nuisance in regards to noise.

The permittee shall comply with the following WECS permit operational noise standards:

a. The WECS shall not be operated so that noise is created exceeding an exterior level of 55 dBA, as measured pursuant to the Health Services Agency, Office of Industrial Hygiene's transmittal dated August 31, 2006. WECS shall not create sound pressure levels in excess of the development criteria contained in Section 18.41d of Ordinance No. 348. All questions regarding the true meaning of these noise and sound pressure level standards shall be referred to the Public Health Department's Office of Industrial Hygiene (hereafter Health Department). In the event noise or sound pressure levels exceed the above standards, the WECS operator shall take the necessary steps to remedy the situation, which may include discontinued operation.

b. The Health Department shall investigate WECS noise and sound pressure level complaints while this permit remains within the unincorporated jurisdiction of Riverside County. The Health Department representative may enter the property to investigate any noise complaints upon reasonable notice. At the time of investigation, the operator of the WECS array may be required to temporarily discontinue the operation of as many WECS as needed within the array at no cost to any government agency in order to allow the Health Department representative to make reasonable field evaluations. Furthermore, the WECS operator shall be responsible for paying all County staff time spent on noise related investigations based on the County's applicable hourly rates.

H. Radio/Television/Electronic Equipment Interference

1. Impacts

To avoid any effects to microwave signals in the area, the turbines have been located to stay clear of the Worst Case Fresnel Zones (WCFZs) associated with all microwave beam paths that cross the site. The WCFZ is the maximum area of a microwave signal that could be affected by interference from a turbine. There is a slight possibility that off-air television signals could be impacted by the wind farm for the residents in the area that do not have cable television.

In addition to the construction and placement parameters mentioned above, a request was made of the National Telecommunications and Information Administration (NTIA) to ascertain any potential impacts from the Project. The NTIA provided to the federal agencies represented in the Interdepartmental Radio Advisory Committee the plans for the Project. The agencies did not identify any concerns regarding blockage of their radio frequency transmissions.

2. Mitigation

The Applicant has commissioned an off-air television signal measurement study to document the current (pre-Project) strength of television signals in the Project. If residents in the area complain of poor television interference after the Project is completed, the Applicant will measure the television signal strength and compare it to the documented pre-Project signal strength. If the Project is determined to be the source of impaired signal, then the Applicant will work with residents to mitigate the issue (*e.g.,* by providing an improved antenna, signal booster, or cable access).

I. Transportation/Traffic

1. Impacts:

Traffic associated with the proposed Project would be minor. Trip generation for the project will be comprised of both construction worker trips and delivery activity. Truck deliveries are expected to occur throughout the day with approximately 30 to 40 equipment vehicle trips per day. Additionally, water trucks are expected to make 10 to 15 trips per day. Total construction traffic is estimated to be 80 vehicle trips per day.

During construction, the proposed Project would result in the need for temporary parking areas on site for construction-related vehicles and equipment. These temporary parking areas would not impact existing on-site operations or off-site parking areas.

Based on other operating WECS projects, it is estimated that long term traffic for maintenance and operations would employ approximately 10 permanent employees and would have about 20 vehicle trips per day for the entire project. While the Project would contribute to cumulative traffic increases in the area, the incremental traffic increase would be small and is not expected to result in significant changes to LOS or other operation or safety characteristics of the local circulation system.

The proposed Project would involve the off-site construction of approximately 3.2 miles of underground interconnect or overhead collector cables. The construction of underground interconnect collector cables would involve the crossing of Dillon Road and Diablo Road. These roads would be crossed using standard trenching construction methods. This would involve encroachment within the affected rights-of-way, and would require an encroachment permit from the Riverside County Transportation Department. The required review and approval by the County will ensure that Project-related impacts on the affected roadways would be les than significant.

2. Mitigation:

Within 18 months of project approval, public rights-of-way shall be conveyed for public use along Worsley and Diablo Roads, along the northern boundary (Two Bunch Palms Road), and along the southern boundary (16th Avenue).

The necessary permits shall be obtained from Caltrans and the Riverside County Transportation Department prior to the start of construction. All roadway features shall be protected or restored to the extent feasible if disturbance is unavoidable.

A Traffic Control Plan shall be prepared for all affected roadways.

The County will conduct a public access route inspection prior to construction, at the half-way point of construction, and upon completion of construction, with expenses borne by the Applicant.

Construction traffic, and later on-going operation and maintenance traffic, associated with this commercial WECS permit, shall utilize off-site legal access, as approved by the Director of the Transportation Department. Construction, operation and maintenance traffic shall be restricted to the hours between 6:00 a.m. to 10:00 p.m., except as required for emergency

maintenance to the WECS array, and shall not present public nuisance in regards to fugitive dust, noise and outdoor lighting.

J. Wake Effects

1. Impacts

Under Riverside County Ordinance No. 348 Section 18.41(d)(2)(a) Wind Access Setbacks for Commercial WECS Permits, the required setback is five times the rotor diameter (or 1,007 feet) from the downwind property line. However, Section 18.41(d)(2)(b) specifies that these setback requirements do not apply if the Planning Commission determines that the characteristics of the downwind property, such as, but not necessarily limited to, topography or use of such property as a transportation corridor, eliminate the ability to develop this downwind property with commercial WECS. The Applicant has requested a variance from the five rotor diameter (or 1007 feet) setback to site the nine turbines on the eastern side of Area 1 closer to the property line. The findings regarding the variance are provided later in this resolution

2. Mitigation

There are no impacts to existing or future downwind properties, and thus no mitigation is required.

K. Agricultural Resources

1. Impacts:

There are no prime, unique, state or locally important farmlands within the Project area or on adjacent properties. Furthermore, the northern portion of Coachella Valley is not currently, nor has it historically been used for agricultural purposes due to the very dry climate and poor soil. No agricultural reserves established pursuant to the Williamson Act exist within the Project vicinity. The proposed Project would not have any impact to agriculture in the Project area.

2. Mitigation:

None required.

L. Hazards and Hazardous Materials

1. Impacts:

Older wind project equipment has posed certain hazards to human safety, such as tower collapse and blade throw, typically as a result of seismic events. Modern design and operation of wind towers and turbines in accordance with proper site management have significantly reduced the risk of blade throw to less than significant rates. The turbines are sited in accordance with all the County safety setbacks to prevent impacts in the unlikely event of a turbine failure. The wind access setback of five times the rotor diameter was designed to prevent wake effects and is not related to safety setbacks.

For this project, the design earthquake loads are in accordance with the California Building Code and the design wind loads are in accordance with the International Electrotechnical Commission (IEC) based on meteorological data collected at the project site. Modern wind turbines are also equipped with redundant braking systems and the continual supervisory control and data acquisition (SCADA) monitoring system, which make the necessary adjustments to ensure that power is generated at peak performance while protecting the turbine and maintaining a safe level of operation over the life of the unit. Because the towers are designed to withstand these conditions, tower collapse is extremely unlikely and is considered less than significant from the standpoint of risk of upset or impacts to human health. In addition, the proposed locations for the towers are not within any established 100-year floodplain.

Utility-scale wind turbines are certified to international engineering standards, such as those developed by Germanischer Lloyd or Det Norske

Veritas, which require that the turbines are designed to withstand extreme seismic events, high wind conditions, and flooding episodes. Modern wind turbines are also equipped with redundant braking systems and the continual supervisory control and data acquisition (SCADA) monitoring system, features that make the necessary adjustments to ensure that power is generated at peak performance while protecting the turbine and maintaining a safe level of operation over the life of the unit.

All proposed turbine locations comply with the County safety setback guide, thus eliminating risks to residences.

There are no known hazardous waste contamination sites on or adjacent to the subject sites (URS, 2004). There is a considerable amount of trash at the Project sites; however, based upon the history of the sites, it is unlikely that any contamination is present. The applicant has also committed to removing abandoned pieces of wind turbines, equipment and debris. Use of any hazardous materials would be in compliance with the County's and the State's regulations and enforcement procedures, and as such, the impacts from releases of hazardous substances as a result of the Project construction and operation would be less than significant.

2. Mitigation:

Prior to the Final Building Inspection Approval of the WECS, legible signs, warning of WECS electrical and other hazards, shall be posted on stationary positions of the WECS or its tower and at gated entry points to the project site, at a height of three to five feet above the ground. Warning signs shall be in English and Spanish.

M. Hydrology and Water Quality

1. Impacts:

The Project would not affect hydrology, including surface drainage, flooding, direction or flow, surface water quality, or groundwater quality or

quantity. The Project is not influenced by flooding and drainage issues as identified in the Riverside County General Plan. The proposed sites are located outside the 100-year flood zone (Zone A) according to the Federal Flood Insurance Rate Map FIRM (reference panel 060245 0900 C) and the CGP. Development of the Project would increase the amount of impervious surfaces only slightly since on-site access roads would be gravel or dirt surfaced, thereby allowing percolation and infiltration of storm water to continue on the sites. Following construction, maximum disturbance for the proposed structures (wind turbines, transformers, met towers, substation) cover approximately 0.5 acres, which is equal to approximately 0.1 percent of the entire Project. Project-related development would not substantially affect absorption rates or impede natural drainage flows. The proposed Project would not result in the need for water services or construction of new water lines/facilities, nor would it involve the direct addition or withdrawal of groundwater.

During construction grading, there is the potential for some short-term erosion to occur and discharge of pollutants, especially during rainy periods. However, the project will implement best management practices in compliance with its National Pollution Discharge Eliminations System permit.

2. Mitigation:

None Required.

N. Mineral Resources

1. Impacts:

According to the California Division of Mines and Geology, the area to the north of I-10 in the Project vicinity is located within a classified MRZ-3 mineral resource zone, which indicates areas of mineral deposits that cannot yet be evaluated for significance according to available data. The site's

mineral resources primarily consist of sand, gravel, and cobbles of varying size according to the CGP. The construction of Dillon WECS Project could cause some reduction of the area available for surface mining activities, but does not preclude the ability of future mining on the site and WECS are generally considered a compatible land use adjacent to a surface mine.

2. Mitigation:

None required.

O. Population and Housing

1. Impacts:

No population impacts are anticipated as a result of the proposed development because the Project neither proposes housing, nor would it serve as a substantial source of employment. Approximately 80 construction workers would be hired from the existing local labor force, and approximately 10 permanent employees would be required for operations and maintenance of the WECS. No additional public services would be required. No adverse impacts to existing housing stock would occur since the Project contains no existing residential structures. The Project would not induce substantial population growth or cumulatively exceed official population projections as there is no associated housing component.

2. Mitigation:

None required.

P. Fire Protection Services

1. Impacts:

The Project is currently served by the North Palm Springs Station (Station No. 36). This station is equipped with two types 1 Fire Engines, and one rescue squad consisting of three firefighters plus volunteers on 24-hour shifts at all times. The Riverside County Fire Department contracts with the

California Department of Forestry for specialized fire suppression resources such as the use of fixed wing and rotary winged aircraft, hand crews and heavy equipment. County Fire also maintains a "Mutual Aid" agreement with the City of Palm Springs which establishes a mutual aid zone in which the City takes primary responsibility for protecting areas within its corporate boundaries adjacent to County land and the County is given primary responsibility for protecting much of the City's Sphere of Influence (County of Riverside 2003).Based on the nature of the proposed Project, no significant impacts are expected to occur to County fire services in the area. The Project contains no wooden structures or habitable buildings which would require fire response for life/safety concerns. The fire protection measures required by the Riverside County Fire Department as conditions of approval for the Project and included in the Project design would reduce any potential impacts to a level less than significant.

2. Mitigation:

As conditions of project approval, the County shall require establishment of a minimum fire flow per the Uniform Fire Code (UFC) and Riverside County Ordinance No. 787.

The following areas shall be cleared of vegetation and maintained as a fire/fuel break as long as the generators are in operation: access roads, ten radius feet around all transformers and wind turbine towers, thirty feet around all buildings. All buildings or equipment enclosures of substantial size containing control panels, switching equipment, or transmission equipment, and no regular human occupancy, shall be equipped with an automatic fire extinguishing system of a Halon or dry chemical type. Plans for such systems must be submitted to the County's Fire Department for review or approval. Service vehicles assigned to regular maintenance or construction at the project shall be equipped with a portable fire

extinguisher of a 4A40BC rating. All motor driven equipment shall be equipped with approved spark arrestor.

Q. Sheriff Services

1. Impacts:

The proposed project would not result in a significant increase in the demand for sheriff services. The Project is within the Riverside County Sheriffs jurisdiction. Each of the turbines would be locked and the substation would be fenced and locked to prevent unauthorized access. Security and safety requirements for WECS arrays are included in section 18.41 of Ordinance No. 348.

2. Mitigation:

None required.

R. Schools

1. Impacts:

The Project would not increase student populations or impact schools in the area. Requirements of state law provide the mechanism for mitigation of school service impacts resulting from the construction of human occupancy structures. WECS towers are not considered human occupancy structures and the Project would have no effect on school services.

2. Mitigation:

None required.

S. Libraries

1. Impacts:

There would be no impact on library services, as the Project would draw no new residents to the area. Additionally, WECS arrays are generally considered a commercial or industrial use and therefore typically have a positive fiscal impact on the county's ability to provide library services.

2. Mitigation:

None required.

T. Health Services

1. Impacts:

There would be little impact on health services, as the Project would draw no new residents to the area. Additionally, WECS arrays are generally considered a commercial or industrial use and therefore typically have a positive fiscal impact on the county's ability to provide health services.

2. Mitigation:

None required.

U. Recreation

1. Impacts:

The Project is not within the boundaries of any public agency designated to receive land dedication or fees pursuant to Section 10.35 of Ordinance No.460. The proposed Project would not result in an increase in population generating a need for recreational services.

2. Mitigation:

None required.

V. Utility and Service Systems

1. Impacts:

The Project would not include development of any habitable structures or irrigated landscaping and would not involve the extension of water or sewer lines to the site. Therefore, the Project would not be affected by the domestic water programs, sewer services, and land use standards of the CGP (Please write out abbreviated words). Solid waste generated by the proposed Project would be limited to minor amounts of construction-related debris removed from the site. The Project would not adversely affect exiting utilities in the area; in fact, it would boost energy production to regional

consumers. The Project does not include habitable structures and windfarms are not considered a major user of utilities or other service systems, therefore potential impacts would be less than significant. With respect to road maintenance, based on the Project's limited, short-term amount of construction traffic and the minor traffic associated with the maintenance of the proposed facilities, no significant impacts to road maintenance are anticipated to occur.

2. Mitigation:

None required.

BE IT FURTHER RESOLVED by the Board of Supervisors that the following impacts potentially resulting from the approval of the project cannot be fully mitigated and will be only partially avoided or lessened by the mitigation measures hereinafter specified; a statement of overriding findings is therefore included herein:

A. Visual Resources

1. Impacts:

Implementation of the proposed project would result in short term visual impacts from construction as well as operational visual impacts. Development of the Dillon Project would create long-term visual changes in the landscape, as seen from several key observation points and numerous other less-critical vantage points.

As described in Section A, at page 2, above the applicant has requested a variance to measure the (0.25 mile (1,320 feet) scenic resources setback from the edge of pavement rather than the edge of right-of-way on the basis that a portion of the highway right-of-way protrudes into the leased property more than 500 feet, creating a large scenic resources setback distance in Area 1, for a planned highway interchange that was never constructed and no longer has a functional relationship with the scenic highway or the land uses in the area it would serve. The project would have a significant,

unavoidable visual impact at Seeley Road at Westside Drive and Highway 62. An additional visual simulation was generated for the FEIR to show the appearance from the turbines if they were located 0.25 mile from the SR 62 right of way (ROW). This simulation illustrates that there is very little difference in the visual impacts of siting turbines back 0.25 miles from the SR 62 ROW from that proposed in the DEIR. This variance request has been minimized to the greatest extent feasible and is based on the unique characteristics of the property and pre-existing road alignments.

The project will have a significant, unavoidable visual impact on viewers along Indian Avenue at Two Springs RV Resort, Seeley Road at Westside Drive and Highway 62, and San Jacinto Road at La Estrellita Road. Because the San Gorgonio Pass Wind Energy Policy Area abuts land zoned for residential development, wind turbines on adjacent property would always have a visual impact and these impacts were contemplated during the designation of the Wind Energy Policy Area. Any project in this area would have some unavoidable visual impacts. The County of Riverside has issued a Statement of Overriding Consideration to approve the project in light of these visual impacts, which is attached below.

2. Mitigation:

The project shall comply with the requirements of Riverside County Ordinance No. 655, which specifies standards for outdoor lighting and requires the submission of plans and evidence of compliance with Ordinance No. 655. The project shall also comply with Federal Aviation Administration rules and regulations directives of the Riverside County Airport Land Use Commission's letter dated January 22, 2007, a copy of which is on file with the Riverside County Planning Department.

As conditions of project approval, the County shall require that construction, operation and maintenance traffic shall be restricted to the

hours between 6:00 a.m. to 10:00 p.m. to avoid public nuisance in regards to outdoor lighting; that any outside lighting shall be hooded and directed so as not to shine directly upon adjoining property and public right-of-way; and that the coloration of all exterior components and towers shall be painted a non-reflective white in compliance with FAA regulations.

In addition, the project shall comply with the mitigation measures included in the FEIR No. 487, including use of Low-Level, Directional, Shielded or Motion Detector Lighting, no reflective surfaces, no logos or markings; contribution to the Riverside County Wind Implementation Monitoring Program (WIMP); and creation of a hotline telephone number.

With regard to Scenic Highway 62, the Applicant made several design modifications in the FEIR in response to comments received during the public and agency review period for the DEIR on the highway, in order to address concerns with regard to the project's compliance with the County safety setback and proximity to the scenic highway. The Applicant shifted turbines A-1 through A-10 east towards the center of WECS 116 to maintain a minimum of 1,320 feet or 0.25 mile from the edge of pavement of Scenic Highway 62. As allowed under Section 18.41(d)(3)(e), the Applicant requests a variance to measure the 0.25 mile (1,320 feet) setback from the edge of pavement, maintaining a 0.25 mile setback from the edge of pavement or scenic resource.

For the significant, unavoidable visual impact on viewers along Indian Avenue at Two Springs RV Resort, Seeley Road at Westside Drive and Highway 62, and San Jacinto Road at La Estrellita Road, the County of Riverside has issued a Statement of Overriding Consideration to approve the project in light of these visual impacts, which is included below.

BE IT FURTHER RESOLVED by the Board of Supervisors that it has considered the following alternatives identified in the EIR No. 487 in light of the environmental impacts which cannot be fully

avoided or substantially lessened and has rejected those alternatives as infeasible for the reasons hereinafter stated:

A. No Project Alternative

1. The No Project Alternative is required by CEQA. No Project, under CEQA, is interpreted to mean that the Project would not be built. Under the No Project Alternative, it is assumed that the Project as proposed would not occur and the Project sites would remain in their present land use condition as semi- disturbed vacant desert land.

a. Adverse Impacts avoided by the No Project Alternative

With the No Project alternative, the environmental impacts associated with construction and operation of the proposed WECS Project would not occur. Project impacts other than visual impacts are not significant; with respect to those other impacts; the No Project alternative does not offer a significant benefit when compared with the Project alternative. The No Project alternative would avoid the significant visual impacts identified in Section 6.1 of the EIR, and this does represent a significant difference from the Project Alternative. Other than this avoidance of visual impacts, the No Project alternative does not offer any significant benefit in terms of decreased or avoided impacts to the human and natural environment.

b. Beneficial Impacts eliminated by the No Project Alternative

While the negative visual impacts associated with the placement of Project wind turbines would be eliminated, this would occur at the expense of eliminating a range of environmental, energy, and economic benefits from the proposed project to the local and regional community.

c. Environmental Benefits Eliminated

The No Project alternative would eliminate the significant environmental benefits offered by the Project when compared with other available means of meeting the local and regional energy demand. As discussed in EIR

Section 4.3, "Project Objectives," the proposed WECS Project has the primary purpose of producing energy from renewable wind resource consistent with SB 1078 designed to help protect California's environment and quality of life, with the specific result of reducing greenhouse gases as a component of energy production. The proposed Project would directly offset the demand for energy produced by conventional fossil-fueled power plants. As such, the Project would result in a net reduction in air pollutant emissions.

Wind turbines, such as the ones proposed, rated at 1 MW each, would typically generate three million kw-hrs per year. The proposed 45 turbines, rated at 1 MW each, for a total Project rating of 45 MWs would result in an approximate reduction of approximately 186 million pounds of CO2, 9.6 million pounds of SO2, and 5.8 million pounds of NOx. (DEIR, Section 6.2). In addition, reductions are also anticipated for other pollutants such as PM10, PM2.5, VOCs, and toxic air contaminants.

d. Energy-Specific Environmental Benefits Eliminated

The No Project alternative would eliminate the benefits of renewable energy offered to the local community by the Project. Wind energy benefits the local community by providing clean and renewable energy that reduces our reliance on other energy sources that rely on diminishing resources and produce harmful emissions. The 45 Project turbines will produce enough energy to power approximately 13,500 homes. The energy produced by the Dillon Wind Project will go directly onto Southern California Edison's power grid for distribution to its customers, including those residing in the Coachella Valley. Energy rates are established by the CPUC for entire service territories, and wind energy helps reduce the cost of power below what it would be otherwise because wind power is cheaper than other forms of energy such as gas-fired electricity.

Additionally, the No Project Alternative would not provide the energy benefits and realization of the goals set forth in the San Gorgonio Pass Wind Energy Policy Area in the County of Riverside General Plan or the Energy Industrial General Plan as set forth by the City of Palm Springs. These adopted plans and policies make clear the local government's desire to concentrate wind energy development in an area determined to be one of the most productive, appropriate, and efficient in the nation.

e. Economic-Specific Environmental Benefits Eliminated

With the No Project alternative, the project would not be constructed and the need for energy might be met by projects in other parts of California or the western U.S. This would deprive the local community of the Project's economic benefits. The project over its project life will contribute at least $12 million in property tax payment, helping to fund and improve local public services for the citizens of Riverside County. The project also will create approximately 30 to 60 construction jobs and 5 to 10 on-going operation and maintenance jobs, and these local jobs will have a trickle-down benefit for businesses patronized by the project employees.

f. Alternative: Relocation or Elimination of Certain Turbines

Based on the evaluation of visual resources, it was determined that there remains a potential for a significant impact to visual resources from locations represented by the views from Seeley Road at Westside Drive and State Scenic Highway 62 (see EIR Section 6.1.4.3.3). The elimination of turbines (specifically Turbines A1-A-10, located parallel to State Scenic Highway 62) was considered as a potential method to reduce or eliminated visual impacts.

B. Evaluation:

The significant visual impact identified in Section 6.1.4.3.3 of the EIR from locations represented by the views from Seeley Road at Westside Drive and State Scenic

Highway 62 would be avoided if this alternative were to be implemented. Conversely, the Project's beneficial impacts related to air quality and energy production would not be achieved. As noted above in the discussion of the "No Project" alternative, the proposed Project would offset the demand for energy produced by conventional fossil-fueled power plants. As such, the Project would result in a net reduction in air pollutant emissions. Elimination of turbines A1 through A10 represents a large part of the Project and would considerably reduce the expected benefits from the reduction of pollutants such as CO, PM10, PM2.5, VOCs, and toxic air contaminants. Additionally, this alternative would not maximize the benefits and realization of the goals set forth in the San Gorgonio Pass Wind Energy Policy Area in the County of Riverside General Plan. Elimination of these turbines might make the Project infeasible.

C. Alternative: Other Locations

When determining whether off-site locations should be considered in an alternatives analysis, the lead agency (the County) determines whether the examination of such alternatives is appropriate given the physical characteristics of the project, the project purposes, and the extent to which alternative off-site locations would substantially lessen or avoid significant impacts.

The county has determined that an alternative site for the Project was not appropriate to be analyzed in this discussion because the balance of sites in the San Gorgonio Pass which are large enough to accommodate 45 MW wind energy Project, are already developed with WECS, or do not have wind energy characteristics comparable to the proposed sites, and therefore, the associated costs in developing this Project elsewhere would result in a higher cost for the energy produced due to a higher per-unit cost. Wind energy in general, and the Applicant's objectives specifically, necessitate delivering renewable power at the lowest cost in order to be competitive in the deregulated market. Wind velocity is the single most significant variable affecting the economic performance of WECS related Projects and the wind potential at the proposed site is among the highest of developable sites in California for commercial wind energy Projects. In addition, the proposed site has existing road

access and interconnection lines with available capacity nearby. The site also has very little topographic relief, which allows development without necessitating extensive site grading and the impacts and costs associated therewith. Development of an alternative site would not meet the Applicant's objectives of producing the lowest cost of energy by utilizing one of the very windiest and least costly sites to develop. Additionally, the Applicant does not own or have access to a comparably sized, windy site in the area. Finally, the choice of an alternative location within the San Gorgonio WPA would be of comparable visibility from an adjacent community in the region and would not provide a means to reduce the significant visibility of these vertical elements. Based on all of these factors, an alternative site was eliminated from further consideration.

BE IT FURTHER RESOLVED by the Board of Supervisors that the State CEQA Guidelines (Section 15126 (d)) require an EIR to discuss how a proposed project could directly or indirectly lead to economic, population, or housing growth. A project may be growth-inducing if it removes obstacles to growth, taxes community service facilities or encourages other activities which cause significant environmental effects. The discussion is as follows:

Southern California Association of Governments (SCAG) Regional Comprehensive Plan and Guide (RCPG) provides general policies, objectives, and goals for managing growth responsibly. The RCPG contains Growth Management goals aimed at improving the regional quality of life through the development of urban forms that enhance quality of life, accommodate a diversity of life styles, preserve open space and natural resources, and are aesthetically pleasing and preserve the character of communities.

Development of the Project represents an intensification of existing land use on the site and surrounding area. Intensification of land use typically leads to some types of growth-inducement. Growth in the Project area is usually induced in one of three ways: (1) the "leap frog" effect; (2) the "multiplier" effect; or (3) introduction of a new type of development to the area.

The "leap frog" effect concerns Project that require the extension of urban infrastructure, such as water, sewer, electricity, roads, telephone, storm drainage, etc., to a new area that is not contiguous to existing urbanization. Leap frog development is considered growth-inducing because it renders adjacent

land more developable due to the availability of the extended infrastructure. The proposed Project would not extend any additional infrastructure to the sites and it is not considered a "leap frog" development; thus, the proposed Project would not contribute to significant growth-inducement of this type.

The "multiplier" effect occurs when a Project that is large relative to the surrounding area induces community growth. This growth need not necessarily occur adjacent to the site or be of the same use as the development itself. A Project of sufficient magnitude can initiate a growth cycle in the community that could result in major alteration of community size and character. An example of this type of growth would be the development or redevelopment surrounding a major new sports facility or regional shopping center. The proposed Project would not induce population growth as operations would only require approximately ten employees. The additional electric supply produced by the Project to Southern California's regional grid would not induce growth, either, but is instead a response to growth in demand for electricity.

Introduction of a new type of development to an area can establish a precedent for additional development of a similar or supporting character. As a WECS development in an area dominated by wind energy development and following the precedent set by many preexisting windfarm Projects on adjacent property, the Dillon Wind Project alone would not significantly induce the development of similar or supporting new uses in the vicinity.

Because development would occur in an area where necessary infrastructure has already been extended, and for the other reasons discussed above, the proposed Project is not considered to have a significant growth-inducing impact.

BE IT FURTHER RESOLVED by the Board of Supervisors that it has balanced the benefits of the Dillon Wind Project against the significant and unavoidable adverse environmental impacts in determining whether to approve the project, and has determined that the following benefits outweigh and render acceptable those environmental effects and unavoidable adverse environmental impacts:

A. Based on the findings herein approving the project, the draft environmental impact reports, the entire record, oral and written testimony, the supplemental findings contained in the DEIR and other evidence received at the public hearings on the project, the Board finds that there is substantial evidence that the project will bring substantial benefits to the County, including environmental, energy, economic,

legal, social, technological, and other benefits that outweigh the significant effects that cannot be mitigated to a less than significant level.

B. The County Board of Supervisors has hereby determined that the aesthetic/visual impacts of the project are the only impacts that are at a significant level and therefore the Statement of overriding consideration focuses on the factors that contribute to those impacts and the public benefits that outweigh them.

C. The County hereby finds that with the advent of wind power, the San Gorgonio Pass has become well known as a man-made landscape with more than 2800 wind turbine generators dominating the landscape. The project is sited entirely within the County Wind Energy Policy Area and the City Energy Industrial General Plan and Zoning designation and is considered an in-fill wind energy project. Area 5 is entirely surrounded by wind turbines, and areas 1 and 3 are located immediately adjacent to existing wind turbines. There are more than 500 turbines within ½ mile of the project. Based on these and other factors identified in the DEIR and FEIR, the aesthetic analysis has correctly characterized the overall Dillon Wind project study area as a landscape that has been greatly transformed from its natural condition to one with a mixed industrial /rural character. In light of these conditions the addition of wind turbines does not create a significant visual/aesthetic impact to all locations. In located designated in Section 6.1 of the FEIR the proposed turbines in Areas 1 and 3 would appear as recognizable new structures but the would be in the contexts of existing transmission lines in the foreground with numerous vertical elements. Panoramic photos in the FEIR demonstrate that the visual impacts at these locations are less than significant.

D. The County Board of Supervisors hereby finds that the visual simulations have determined that significant unavoidable visual impacts to the area do occur at Seeley Road at Westside Drive, from San Jacinto Road at Estrella Road, and from Highway 62 from two alternate locations based on the location of the Right-of-way. The specific location and range of these impacts are further demonstrated in Appendix F of the DEIR. The Board hereby finds that the applicant has attempted to minimize these impacts by minimizing its scenic resources setback variance request to be based solely on the unique characteristics of the property and pre-existing road alignments. The applicant has further minimized these impacts by shifting location of turbines A-1 through A-10 east toward the center of the Area 1.

However, even with the adjustments the project would still have a significant, unavoidable visual impact as illustrated in Appendix F.

E. The Board of Supervisors hereby determines, based on the evidence presented and in light of the entire record, that the applicant has mitigated these impacts to the greatest extent feasible, and that some significant visual impacts remain. The Board hereby finds that the alternative discussed in Section 9 of the DEIR analyzed the impacts of a project located a greater distance from Highway 62 or eliminated entirely. The Board hereby finds that the relocation of these turbines would not significantly reduce the visual impacts produced by the project, and that elimination of these turbines would reduce the amount of electricity produced by the project and would considerably reduce the expected environmental benefits of the project. Because of these unavoidable visual impacts the County of Riverside Board of Supervisors is hereby issuing this Statement of Overriding Considerations to approve the project in light of these visual impacts

F. The Board of Supervisors hereby finds that the red synchronized lights at night from the project are in compliances with FAA regulations, that such light would only occur on a portion of the turbines at night, and that the FAA lighting would contribute incrementally to an unavoidable cumulative significant impact. New lighting Guidelines issued by the FAA on 2/1/07 will be followed by the proposed project to further minimize potential adverse impacts from FAA lighting. This lighting is acknowledged to be visible, however this lighting is required for aviation safety and is less intrusive than the lighting previously required by the FAA before the new guidelines. The applicant has obtained FAA clearance for 45 to 52 turbines, with the expectation that approximately 17 will be lighted. The proposed mitigation for visual impacts includes directional shields, or motion detectors to prevent spillover glare, no reflective finishes and other measures. The Board hereby concludes that the applicant has mitigated these lighting impacts to the greatest extent feasible, and that he extensive benefits of the project enumerated in the Statement of Overriding Considerations significantly outweighs the adverse environmental impacts that may result from these aviation lighting impacts.

G. The Board of Supervisors hereby resolves that the visibility of the project from the City of Desert Hot Springs (DHS) was fully analyzed in the DEIR and that additional views were provided in the FEIR at Appendix F to provide additional clarity regarding that visibility. The Board hereby finds that

these visual simulations demonstrate that the project is not visible or minimally visible from key locations of DHS.

H. The Board hereby resolves and finds that the DEIR and the FEIR fully evaluated the potential of environmental impacts on adjacent and nearby properties, and has determined based on evidence contained therein and in the entire record, that the project will not have a significant effect on their contemplated continued use for residential development, based on visual or other factors. Because the Riverside County San Gorgonio Pass Wind Energy Policy Area abuts land zoned for residential development, wind turbines on adjacent property would always have a visual impact, and these impacts were contemplated during the designation of the Wind energy Policy Area. The General Plan for the County of Riverside, as adopted by this Board of Supervisors, has determined that WECS development in the designated areas of the County are compatible with other uses including potential residential development. The County hereby finds that evidence provide in the record of this project demonstrate that wind energy facilities currently existing in Riverside County, Palm Springs and throughout the United States on sites adjacent to residentially zoned and occupied properties and the adjacency of these uses does not created negative environmental impacts when implemented according to prescribed criteria.

I. The Board hereby finds that the County considered a variety of turbine locations to reduce the aesthetic/visual impacts of the project. Wind projects in Riverside County and Palm Springs must be located in the specified portions of the San Gorgonio Pass Wind Energy Policy Area or the Palm Springs Energy Industrial Plan, which have excellent to good wind energy capacity. The Dillon site is within those zones. The Board hereby finds that the other critical factors that determined the selection of alternatives included the presence of existing transmission infrastructure, proximity to an existing Devers substation, and presence of pre-existing WECS uses on the sites. The Board hereby finds that off-site locations within these areas would not reduce the specific visual impacts of concern and off-site locations outside of the wind energy zone were not considered appropriate or feasible.

J. The Board of Supervisors hereby finds that additional efforts have been made to reduce the visual impacts of the proposed project. To this end the applicant has submitted amended exhibits that show seven of the 52 proposed turbine locations will not be constructed, noting that the project changes described reduce the overall energy efficiency of the project. A project without the Scenic

Resources setback variance would consist of seven fewer turbines in WECS 116, Area 1, due to the need to observe safety setback distances from existing and future transmission line corridors crossing through Area 1 and safety setbacks to property boundaries and minimum spacing between individual turbines and between turbine strings. Such additional eliminations will cut into the overall viability and efficiency of the project and potential to provide clean renewable energy in keeping with the project purposes.

K. A project that had no visual impacts would result in a much smaller WECS array and a significant loss in wind energy capture. A reduced number of turbines, as noted in the FEIR, would produce no or fewer beneficial impacts related to air quality and energy production. As discussed in Section 4.3, the proposed project would produce energy from renewable wind resource consistent with SB 1078 and designed to help protect California's environment and quality of life and it would offset the demand for energy produced by conventional fossil-fueled power plants.

BE IT FURTHER RESOLVED by the Board of Supervisors, the Dillon Wind project would provide the following project benefits:

A. The project will further the goals of the Energy Industrial General Plan adopted by the City of Palm Springs, the San Gorgonio Pass Wind Energy Policy Area of Riverside County, and the State of California Renewable Portfolio Standard, Global Warming Act and other similar programs in the State. The Project carefully coordinates the planning process to minimize environmental impacts from the construction and operation of the Project. The benefits of the Project include offsetting the need for electricity generated from fossil fuel by supplying renewable energy, and helping the State further reduce greenhouse gases, among other benefits as more specifically detailed below.

B. Environmental Benefits

1. The Project will preserve more than 98 percent of the parcels on which the Project is located as open space, allowing for continued use of the area by plant and animal species while displacing more intense industrial, urban, or residential uses that could be built on the same property.

2. The Project will result in an approximate air emissions reduction of approximately 186 million pounds of carbon dioxide, 9.6 million pounds of SO2 and 5.8 million pounds of NOx.

3. The Project will offset the demand for electricity generated from fossil fuels and thereby assist the State in meeting its air quality goals and reducing greenhouse gases.

C. Energy Benefits

1. Approval of the Project will aid the County in maximizing the beneficial uses of wind resources and substituting renewable energy resources for non-renewable energy resources, as provided in the Multipurpose Open Space Element in the Riverside County General Plan.

2. The Project will help the State meet its legislated Renewable Energy Portfolio Standards for the generation of renewable energy in the state, which require investor-owned utilities to purchase 20 percent of their power from renewable sources by the year 2010.

3. The Project will make full utilization of the San Gorgonio Pass Wind Energy Policy Area, thereby concentrating wind turbines in appropriate locations in the unincorporated area of Riverside County.

4. The Project will develop a wind energy project within an area of excellent to good wind characteristics in order to maximize energy production and provide low cost renewable, non-polluting electricity.

D. Economic Benefits

1. The Project will provide approximately 80 new full-time jobs during construction of the Project, and approximately 10 permanent full-time employees.

2. The Project will provide economic benefits to the County and its residents by increased spending in the community as a result of construction and development related work and by payment of $12 million in property taxes (that estimate is based on current local tax rates), while placing very few demands on community services such as water, wastewater, traffic, or schools.

3. The Project will also increase spending on goods and services in the community by Project operators.

4. The Project will contribute funds to the Riverside County Wind Implementation Monitoring Program in order to study the evolution of wind energy technology, identify means to solve environmental and community impacts, and provide for an ability to respond with changes in the County's regulatory structure.

BE IT FURTHER RESOLVED that in light of the foregoing economic, social, technological, recreational and planning benefits to the County, pursuant to CEQA Guidelines section 15093, the Board of Supervisors finds and determines that these considerable benefits of the Project outweigh the Project's unavoidable adverse effects, and the "adverse environmental effects" that cannot be mitigated to a level of environmental insignificance, are deemed "acceptable."

BE IT FURTHER RESOLVED that the DEIR and FEIR are hereby incorporated into these Findings in its entirety, and no recirculation of the environmental document is required.

A. Without limitation, this incorporation is intended to elaborate on the scope and nature of Mitigation Measures, the basis for determining the significance of impacts, the comparative analysis of alternatives, and the reasons for approving the Project in spite of the potential for associated significant and unavoidable adverse impacts. No material or substantial changes to the DEIR were proposed as a result of the public comment process. The FEIR responds to comments and makes only minor technical changes, clarifications or additions to the DEIR. The minor changes, clarifications and additions to the DEIR do not identify any new significant impacts or a substantial increase in the severity of any environmental impacts.

B. The Applicant proposes to delete one turbine in Area 3, and relocate 10 turbines in Area 1 and 6 turbines in Area 3 to eliminate its request for a safety setback variance, and to further comply with the scenic resources setback criteria. The total number of turbines is 45, and other project features (number and typical configuration of access roads, underground collection lines, substation, switchyard and are unchanged. These siting changes are consistent with all the applicable impact analyses and constraints set forth in the Draft EIR, and County does not anticipate that any of these adjustments would result in any new or

more severe environmental impacts than were analyzed, including visual, biological (including avian), noise, land use and geotechnical impacts.

BE IT FURTHER RESOLVED, based on the foregoing Findings and on the information contained in the record, the Commission has made one or more of the following findings with respect to each one of the significant impacts of the Dillon Wind Project:

A. Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant effects on the environment.

B. Such changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

C. Specific economic, legal, social, technological, or other considerations make infeasible the Mitigation Measures or alternatives identified in the environmental impact report that would eliminate the significant environmental effects identified therein.

D. Based on the foregoing Findings and the information contained in the record, it is determined that

E. All significant effects on the environment due to the Dillon Wind Project have been eliminated or substantially lessened where feasible.

Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations contained in the FIER and as resolved herein.

BE IT FURTHER RESOLVED by the Board of Supervisors that the project will implement applicable elements of the Riverside County General Plan as follows:

A. The Project is located within the Western Coachella Valley Area Plan (WCVAP) of the Riverside County General Plan (RCIP), and is contained within the San Gorgonio Pass Wind Energy Policy Area (WEPA) of that Plan. The project carries our additional policies of the WEPA by generating power from WECS at the project that takes advantage of a known wind energy resource in the San Gorgonio Pass and will produce needed power in an amount up to 45 megawatts to the local and regional grid. The proposed project is estimated to create jobs during construction and during

operations/maintenance of the proposed wind turbines. The proposed project will provide property and sales tax revenue to Riverside County and the State of California.

B. The County General Plan land use designation for WECS 116, Area 1, is Rural Desert (RD) with a small portion of the northeast corner of the parcel designated as Public Facilities (PF). RD is one of three categories of land use within the Rural Foundation Component of the General Plan and which authorizes the following uses in the RD category: single-family residential uses with a minimum lot size of 10 AC, limited animal keeping, agriculture, recreational, renewable energy uses, compatible resource development, and governmental and utility uses. Therefore, wind energy facilities are consistent with this land use policy of the General Plan. Public Facilities (PF) allow for land uses such as public/quasi-public uses such as landfills, airports, utilities, and other civic uses. Wind energy facilities are electrical utility facilities consistent with this use category.

C. The project, including the recommended general plan land use designations, are in conformance with the Western Coachella Valley Area Plan which includes the existing Rural Desert (RD) Land Use Designation and proposed Public Facilities (P-F) Land Use Designation, and with all other elements of the Riverside County General Plan. The proposed project is consistent with the existing and recommended W-E zoning classification of Ordinance No. 348, and with all other applicable provisions of Ordinance No. 348.

D. The project will not be detrimental to the health, safety or general welfare of the community.

E. The proposed project is conditionally compatible with the present and future logical development of the area.

F. The proposed project is adequately served by roads and other public or private service facilities.

G. The scenic resources setback variance for the project meets ordinance criteria due to the unique features and special circumstances described in these findings herein below, and supported by the substantial evidence in the record.

H. The wind access setback variances for the project meets ordinance criteria due to the unique features and special circumstances described in these findings herein below, and supported by the substantial evidence in the record.

I. The site contains vacant land, except for two existing meteorological towers and prior concrete pads from a prior wind farm. The project would be conditionally compatible with surrounding land uses in that the majority of surrounding properties contain vacant desert areas, low density residential areas, major electrical substation and electrical utility facilities, and other WECS arrays. Other surrounding land uses such as an existing Recreation Vehicle (RV) Park and scattered one-family dwellings would be buffered by a range of measures, including, but not limited to, wind turbine setbacks, compliance with WECS noise standards, uniform WECS design, and full compliance with safety setbacks from any habitable dwelling.

J. Wind potential at this site is considered "excellent" to "good" based on the data contained within the San Gorgonio Wind Resource Study, EIR/EIS No. 158.

K. The project is consistent with the circulation and utilities standards of the Riverside County General Plan, in that access to the project will be from Worsley Road,along with newly graded 20 foot wide service access roads abutting the wind turbine rows within project Areas 1 and 3; electrical interconnection with Southern California Edison facilities is expected to be to existing power lines through a new substation located south of Area 1.

L. The project will conform with the noise and energy resources standards of the Riverside County General Plan; for example, compliance is demonstrated by, (a) the operational noise standard for the proposed WECS array being 55 db(A) at the nearest residential use and zoned land, (b) access drives are not located within any steep slope areas and are not proposed on slopes in excess of 25 percent, and (c) security and safety measures are incorporated into the project requirements.

M. The Riverside County Airport Land Use Commission considered this project on November 9, 2006 and found the project consistent with the Countywide Policies of the 2004 Riverside County Airport Land Use Compatibility Plan subject to conditions which have been incorporated into the recommended conditions of approval of the commercial WECS permits.

N. Land form alteration/visual resources and aesthetics were addressed in the project EIR; the project EIR identified mitigation measures for this impact, including the prohibition of reflective surfaces, no logos or prominent markings, uniform WECS colors, and contribution by the developer of WIMP fees offering a source of funds to mitigate visual impacts.

BE IT FURTHER RESOLVED by the Board of Supervisors that the requested **Scenic Resources Setback Variance** is supported by findings of special circumstances applicable to the parcel of property, including size, shape, topography, location or surroundings, such that the strict application of this ordinance deprives such property of privileges enjoyed by other property in the vicinity that is under the same zoning classification:

The Applicant has requested a variance from the scenic resources setback. Under Section 18.41(d)(3)(a) Resources Setbacks for Commercial WECS Permits, the required setback for wind turbines is 0.25 mile setback from the highway right-of-way. However, Section 18.41(d)(3)(e) specifies that these setback requirements may be reduced to 1.25 times the total WECS height if the Planning Commission determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value.

The scenic resources setback variance for the WCS 116 would allow an alternative measurement of the scenic resources setback along the western boundary of that project, as referenced in Section 18.41d(3) of Ordinance No. 348. There are physical factors unique to this property that warrants the measurement of the scenic resources setback to be from the edge-of-pavement rather than then from the edge of right-of-way. In addition, the visual character of the landscape in this area is one of wind energy and related infrastructure, resulting in an applicable setback of 1.25 times the WECS height. Under either or both standards, these turbines would be eligible for a reduced scenic resources setback.

As noted in the variance submittal, some years ago the County initiated the planning of an interchange that was never constructed, is not now planned to be constructed, and has no functional relationship with the adjacent land uses. Cal-Trans has provided a letter for the record (dated May 27, 2007) confirming that there are no plans for an interchange at that location. That portion of the right-of-way of State Highway 62 protrudes into the Project property more than 500 feet from the actual current location of State Highway 62 along the western boundary of the Project. This incomplete planning

created an unusual and significant curved deviation of the right-of-way alignment and corresponding right-of-way from which the scenic resources setback would be measured. The County finds that the applicant should not be held to an artificially enlarged setback that would result in undue hardship on this property. The applicant proposes to remain consistent with required setback as measured from the edge-of-pavement rather than from the modified right-of-way.

The scenic resources setback, and this alternative measurement, is further supported by the scenic conditions that currently exist surrounding the project. This portion of the Highway 62 viewshed contains numerous existing wind projects and is within the boundaries of the Wind Energy Policy Area planned for wind energy development. The proximity of the existing turbines on both sides of the highway and proposed turbines are shown in the FEIR and in the record for the project. It is determined by the County that the additional turbines proposed at this location are consistent with the scenic character of the highway in this region. This determination is based on the previously approved WECS projects in the area.

This scenic resources setback variance request has been evaluated pursuant to the Riverside County Ordinance No. 348, Section 18.27 a "Basis for Variance" which states, in pertinent part:

> "Variances from the term of this ordinance may be granted when, because of special circumstances applicable to a parcel of property, including size, shape, topography, location or surroundings, the strict application of this ordinance deprives such property of privileges enjoyed by other property in the vicinity that is under the same zoning classification."

When a scenic resources setback variance for Commercial WECS is requested, the assessment of its special circumstances and applicability is further governed by the Riverside County Zoning Ordinance, Section 18.41(d)(3)(e), which allows a project to deviate from scenic resources setback in certain circumstances which are applicable in this instance:

> "Notwithstanding the provisions of subsection c., above [listing the ¼ mile setback], the setbacks therein specified may be reduced to 1.25 times the total WECS height if the Planning Commission determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value. Whenever a setback reduction is proposed pursuant to this subsection, the setback reduction shall be included in all notices regarding the commercial WECS permit, and, if granted, the commercial WECS permit shall specifically state the required setback." (Section 18.41(d)(3)(e)).

The County has examined the record and factual data regarding the protrusion of the previously planned state highway interchange right-of-way into the Project and scenic quality in the vicinity of these turbines. The County also finds that the highway right-of-way along the western boundary of this property is sufficiently unusual that it creates a special circumstance where the applicant's property would be deprived such privileges enjoyed by other property in the vicinity that is under the same zoning classification. Based on the unusual protruding interchange right-of-way, the presence of multiple existing WECS projects throughout the area, and the project's location in the Wind Energy Policy Area, the County also finds that this project is eligible for the revised setback as authorized in Section 18.41(d)(3)(e). This revised setback would allow the turbines to be located at a minimum of 409 feet from the right-of-way. The applicant, however, proposes to exceed that distance, and to be located a minimum of 1,320 feet from the edge of pavement and 743 feet from the existing right-of-way. (This is a variance of 577 feet or 577 feet less than the original setback requirement before applying section 18.41(d)(3)(e)). Therefore the County finds that the physical shape, location and surroundings of the property warrant special circumstances to justify approval of this variance.

BE IT FURTHER RESOLVED by the Board of Supervisors that it has reviewed and considered the findings supporting the request for a **Wind Access Setback Variance**:

Under Section 18.41(d)(2)(a) Wind Access Setbacks for Commercial WECS Permits, the required setback is five times the rotor diameter (or 1,007 feet) from the downwind property line.

The Applicant requests a variance from the five rotor diameter (or 1007 feet) setback to site the nine turbines on the eastern side of Area 1 closer to the property line. This wind access variance for WECS 116 references the development standard of Section 18.41d(2) of Ordinance No. 348, and the variance request regarding this development standard has been evaluated pursuant to the Section 18.27 of Ordinance No. 348 which states, in pertinent part:

> "Variances from the term of this ordinance may be granted when, because of special circumstances applicable to a parcel of property, including size, shape, topography, location or surroundings, the strict application of this ordinance deprives such property of privileges enjoyed by other property in the vicinity that is under the same zoning classification."

When a wind access variance for Commercial WECS is requested, the assessment of its special circumstances and applicability is further governed by Section 18.41(d)(2)(b), which allows a project to deviate from the wind access setback (1007 feet) under certain circumstances:

> "Notwithstanding the provisions of subsection a., above, such setbacks from lot lines do not apply if the application is accompanied by a legally enforceable agreement for a period of 25 years or the life of the permit, whichever is longer, that the adjacent landowner agrees to the elimination of the setback and will not develop his land in such a way as to decrease wind velocity or increase wind turbulence at the location of the proposed WECS. In addition the provisions of subsection a., above, regarding setbacks from lot lines do not apply if Planning Commission determines that the characteristics of the downwind property, such as, but not necessarily limited to, topography or use of such property as a transportation corridor, eliminate the ability to develop said downwind property with commercial WECS. Whenever a wind access setback reduction is proposed to the Planning Commission based on the characteristics of the downwind property, the wind access setback reduction shall be included in all notices regarding the commercial WECS permit, and, if granted, the commercial WECS permit shall specifically state the required alternative wind access setback."

The applicant has fully satisfied the conditions in 18.41(d)(2)(b) for the turbines in WECS 116, which would otherwise have been subject to the wind access setback requirements. These finding and the Project EIR demonstrate that the downwind properties for WECS 116 are not viable for wind development

For turbines C1 through C7, the applicant has secured the proper legally enforceable agreement in the form of a waiver from the adjacent landowner, Southern California Edison. The project is being developed in cooperation with SCE, on whose land the Project facilities are located, and the applicant has received waivers from SCE to install turbines within the Wind Access setback. In addition, these turbines are upwind of the Devers Substation, and SCE has no plans to develop this property for Commercial WECS.

For turbines D1 and D2, the properties are 388 and 430 feet, respectively, upwind of property owned by various landowners. The majority of the downwind properties at these locations are too narrow (160 and 340 feet wide) to be developed for wind. These parcels would require coordination among multiple adjacent landowners to become viable for commercial WECS development. The parcel immediately downwind of turbines D1 and D2 is too narrow (325 feet wide) to be developed for wind.

Commercial WECS could not be installed on this parcel without obtaining numerous variances from the County safety and wind access setbacks or merging the parcel with downwind property owners, including three smaller parcels where the maximum width of these parcel is less than 350 feet and Wintec Energy, who has stated that it does not intend to develop its downwind parcel for commercial development. A copy of the letter from Wintec Energy has been submitted to the County. Due to the physical configuration of those parcels, including their small size in acreage as well as their narrow width, they would not be feasible for wind energy development under any circumstances. Therefore, the development of turbines D1 and D2 by the applicant would not eliminate the ability of the downwind parcel from future wind development.

Additional circumstances warrant the requested variance to avoid unnecessary hardship in the physical development of the property for wind development and to bring the property up to the level of other WECS also in a Wind Energy Resource Zone. These circumstances include:

1. Turbine siting is constrained on the subject property due to the need to maintain other setbacks from major utility transmission facilities and easements. The Applicant is working closely with SCE to maintain setbacks from existing and future transmission lines that would cross WECS 116.

2. The variance would allow the Applicant to optimize spacing between turbines to fully utilize the wind resources, thereby producing the maximum amount of energy feasible from the project. While optimal utilization of the wind resource would require even greater spacing than now proposed, the site constrains discussed above have already reduced this configuration.

BE IT FURTHER RESOLVED by the Board of Supervisors that it has reviewed and considered EIR No. 487 in evaluating the project, that the EIR No. 487 is an accurate and objective statement that complies with the California Environmental Quality Act and reflects the County's independent judgment, and that the EIR No. 487 is incorporated therein by this reference.

BE IT FURTHER RESOLVED by the Board of Supervisors that it **CERTIFIES** the EIR No. 487, **ADOPTS** the associated Mitigation Monitoring Plan, **ADOPTS** the Statement of Overriding

Considerations as set forth above, and **APPROVES** the project Fast Track (Fast Track Authorization 2005-17; Commercial WECS Permit No. 116, and Fast Track Variance Case 1797).

BE IT FURTHER RESOLVED by the Board of Supervisors that the custodians of the documents upon which this decision is based are the Clerk of the Board of Supervisors and the County Planning Department and that such documents are located at 4080 Lemon Street, Riverside, California.

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