

Painted Hills Wind Energy Repowering Project

Painted Hills Wind, LLC

Riverside County, California

Obstruction Evaluation & Airspace Analysis

March 9, 2018



Capitol Airspace Group

capitolairspace.com

(703) 256-2483

Summary

Capitol Airspace conducted an obstruction evaluation and airspace analysis for the Painted Hills Wind Energy Repowering Project in Riverside County, California. The purpose for this analysis was to identify obstacle clearance surfaces established by the Federal Aviation Administration (FAA) that could limit the placement of 499 foot above ground level (AGL) wind turbines. At the time of this analysis, 14 individual wind turbine locations had been identified (black points, **Figure 1**). This analysis assessed height constraints overlying each location, as well as an approximately 1.3 square mile study area (red outline, **Figure 1**) to aid in identifying optimal wind turbine locations.

14 CFR Part 77.9 requires that that all structures exceeding 200 feet AGL be submitted to the FAA so that an aeronautical study can be conducted. The FAA's objective in conducting aeronautical studies is to ensure that proposed structures do not have an effect on the safety of air navigation and the efficient utilization of navigable airspace by aircraft. The end result of an aeronautical study is the issuance of a determination of 'hazard' or 'no hazard' that can be used by the proponent to obtain necessary local construction permits. It should be noted that the FAA has no control over land use in the United States and cannot enforce the findings of its studies.

Height constraints overlying the Painted Hills Wind Energy Repowering Project range from 2,421 to 2,591 feet above mean sea level (AMSL) and are associated with instrument departure procedures. Proposed wind turbines that exceed this surface would require an increase to instrument departure procedure minimum climb gradients. If the FAA determines this impact to constitute a substantial adverse effect, it could be used as the basis for determinations of hazard. However, United States Geological States (USGS) elevation data indicates that it surface should not limit 499 foot AGL wind turbines at any of the proposed locations.

This analysis did not consider electromagnetic interference on communication, navigation, or radar surveillance systems.

Capitol Airspace applies FAA defined rules and regulations applicable to obstacle evaluation, instrument procedures assessment and visual flight rules (VFR) operations to the best of its ability and with the intent to provide the most accurate representation of limiting airspace surfaces as possible. Capitol Airspace maintains datasets obtained from the FAA which are updated on a 56 day cycle. The results of this analysis/map are based on the most recent data available as of the date of this report. Limiting airspace surfaces depicted in this report are subject to change due to FAA rule changes and regular procedure amendments. Therefore, it is of the utmost importance to obtain FAA determinations of no hazard prior to making substantial financial investments in this project.

Methodology

Capitol Airspace studied the proposed project based upon location information provided by Painted Hills Wind, LLC. Using this information, Capitol Airspace generated graphical overlays to determine proximity to airports (*Figure 1*), published instrument procedures, FAA minimum vectoring altitude and minimum instrument flight rules (IFR) altitude charts, enroute airways, and military airspace and training routes.

Capitol Airspace evaluated all 14 CFR Part 77 imaginary surfaces, published Instrument approach and departure procedures, visual flight rules operations, FAA minimum vectoring altitudes, minimum IFR altitudes, and enroute operations. All formulas, headings, altitudes, bearings and coordinates used during this study were derived from the following documents and data sources:

- 14 CFR Part 77 Safe, Efficient Use, and Preservation of the Navigable Airspace
- FAA Order 7400.2L Procedures for Handling Airspace Matters
- FAA Order 8260.3D United States Standard for Terminal Instrument Procedures
- FAA Order 8260.58A United States Standard for Performance Based Navigational (PBN) Instrument Procedure Design
- United States Government Flight Information Publication, US Terminal Procedures
- National Airspace System Resource Aeronautical Data

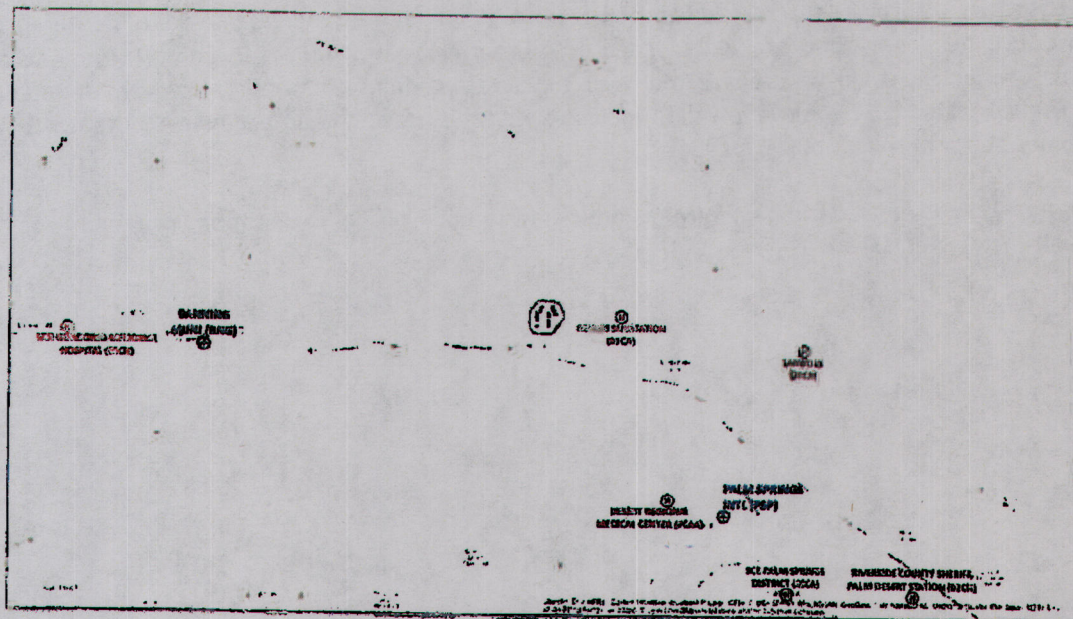


Figure 1: Public-use airports (blue) and private-use heliports (red) in proximity to the Painted Hills Wind Energy Repowering Project

Study Findings

14 CFR Part 77 Imaginary Surfaces

The FAA uses level and sloping imaginary surfaces to determine if a proposed structure is an obstruction to air navigation. Structures that are identified as obstructions are then subject to a full aeronautical study and increased scrutiny. However, exceeding a Part 77 imaginary surface does not automatically result in the issuance of a determination of hazard. Proposed structures must have airspace impacts that constitute a substantial adverse effect in order to warrant the issuance of determinations of hazard.

Public-use airport 14 CFR Part 77.17(a)(2) and 77.19/21/23 imaginary surfaces do not overlie the Painted Hills Wind Energy Repowering Project (Figure 2). As a result, 499 foot AGL wind turbines will not exceed these surfaces. However, if the planned wind turbine height is increased so that it exceeds 14 CFR Part 77.17(a)(1) – a height of 499 feet at the site of the object – all wind turbines will be identified to be obstructions regardless of their location.

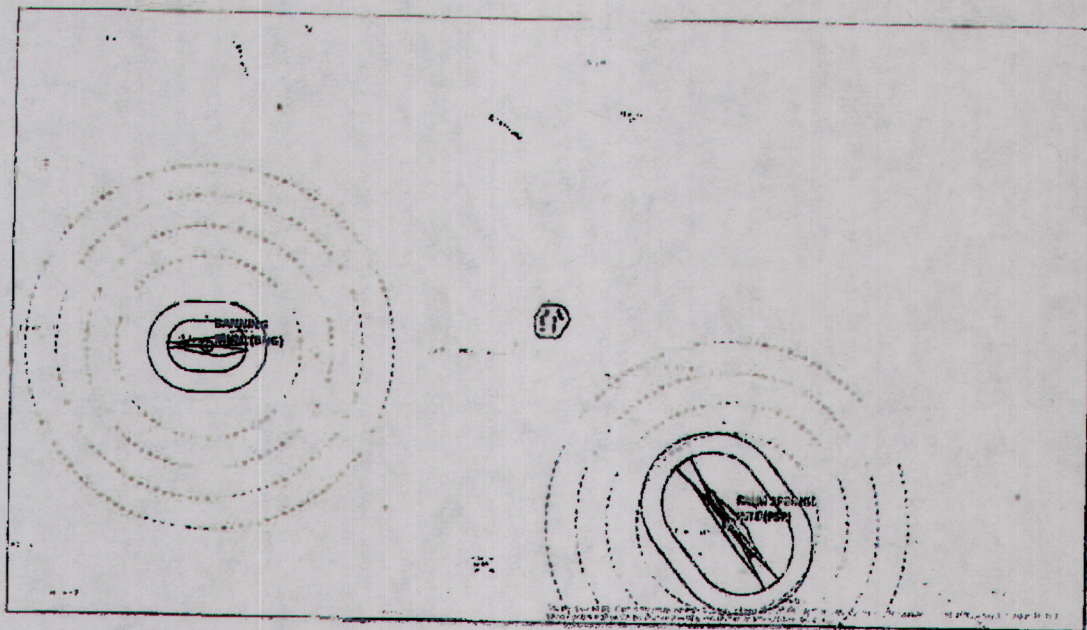


Figure 2: Public-use airport 14 CFR Part 77.17(a)(2) (dashed blue) and 77.19 (black) imaginary surfaces in proximity to the Painted Hills Wind Energy Repowering Project

Visual Flight Rules (VFR) Traffic Pattern Airspace

VFR traffic pattern airspace is used by pilots operating during visual meteorological conditions. The airspace dimensions are based upon the category of aircraft which, in turn, is based upon the approach speed of the aircraft. 14 CFR Part 77.17(a)(2) and 77.19 (as applied to a *visual* runway) imaginary surfaces establish the obstacle clearance surface heights within VFR traffic pattern airspace.

VFR traffic pattern airspace does not overlie the Painted Hills Wind Energy Repowering Project and should not limit 499 foot AGL wind turbines at any of the proposed locations (*Figure 3*).

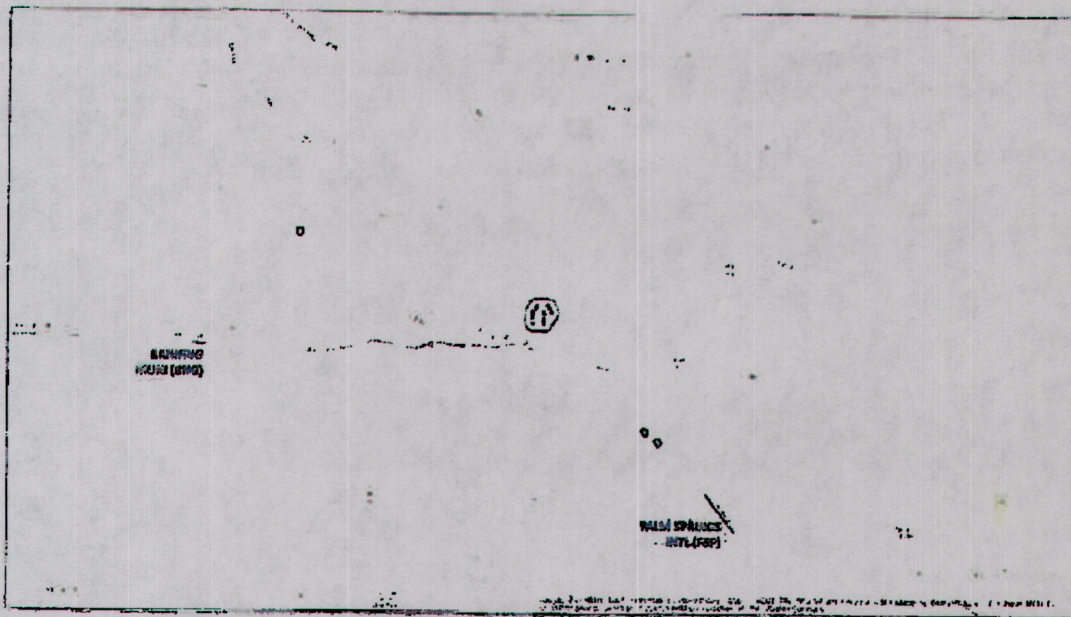


Figure 3: VFR traffic pattern airspace in proximity to the Painted Hills Wind Energy Repowering Project

Instrument Departures

In order to ensure that aircraft departing during marginal weather conditions do not fly into terrain or obstacles, the FAA publishes instrument departure procedures that provide obstacle clearance to pilots as they transition between the terminal and enroute environments. These procedures contain specific routing and minimum climb gradients to ensure clearance from terrain and obstacles.

Proposed structures that exceed instrument departure procedure obstacle clearance surfaces would require an increase to minimum climb gradients and/or change to routing. If the FAA determines that this impact would constitute a substantial adverse effect, it could be used as the basis for determinations of hazard.

Palm Springs International Airport

Runway 31L Cathedral One Standard Instrument Departure (SID) (Figure 4)

Obstacle clearance surfaces range from 2,421 to 2,591 feet AMSL where they overlie the study area and is the lowest height constraint overlying the entire study area. USGS elevation data indicates that these surfaces could limit 499 foot AGL wind turbines on higher terrain in a few small areas within the study area (red areas, Figure 4). However, none of the proposed wind turbines are located in these areas.

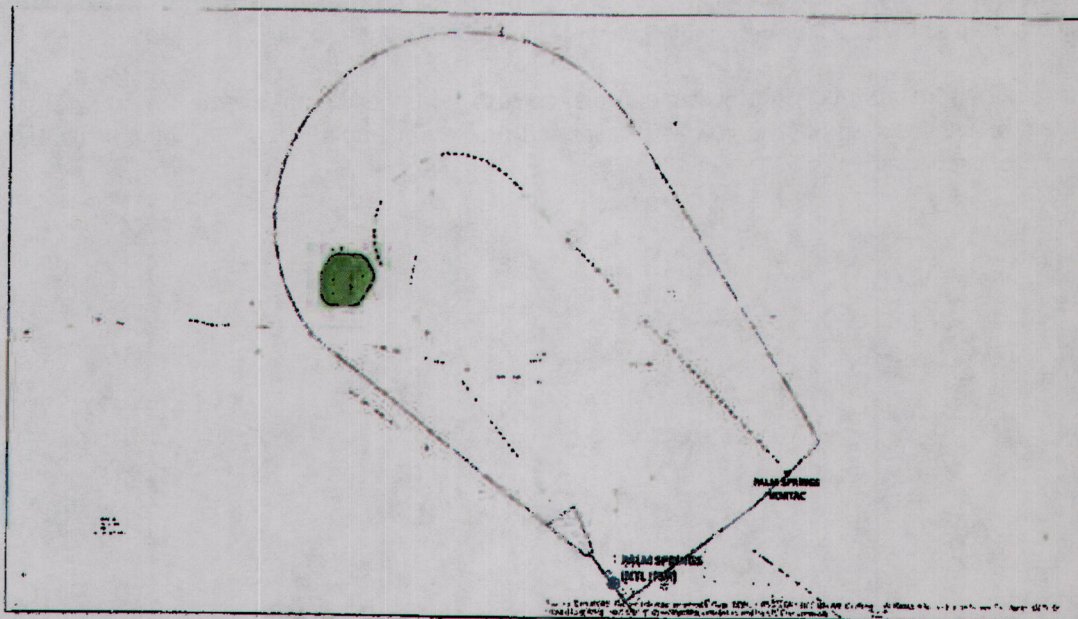


Figure 4: Palm Springs International Airport (PSP) Runway 31L Cathedral One departure

Instrument Approaches¹

Pilots operating during periods of reduced visibility and low cloud ceilings rely on terrestrial and satellite based navigational aids (NAVAIDS) in order to navigate from one point to another and to locate runways. The FAA publishes instrument approach procedures that provide course guidance to on-board avionics that aid the pilot in locating the runway. Capitol Airspace assessed a total of eight published instrument approach procedures at four public-use airports in proximity to the Painted Hills Wind Energy Repowering Project:

Bermuda Dunes (UDD)

RNAV (GPS) Approach to Runway 10
RNAV (GPS) Approach to Runway 28
VOR-C Circling Approach

Palm Springs International (PSP)

RNAV (RNP) Y Approach to Runway 31L
RNAV (RNP) Z Approach to Runway 13R
VOR or GPS-B Circling Approach

Big Bear City (L35)

RNAV (GPS) Approach to Runway 26

Hemet-Ryan (HMT)

RNAV (GPS) Approach to Runway 05

Proposed wind turbines that exceed instrument approach procedure obstacle clearance surfaces would require an increase to their minimum altitudes. Increases to these altitudes, especially critical *decision altitudes (DA)* and *minimum descent altitudes (MDA)*, can directly impact the efficiency of instrument approach procedures. If the FAA determines this impact to constitute a substantial adverse effect it could be used as the basis for determinations of hazard.

Instrument approach procedure obstacle clearance surfaces either do not overlie the study area (e.g., *Figure 5*) or are in excess of other lower surfaces and should not limit 499 foot AGL wind turbines at any of the proposed locations.

¹ Palm Springs International Airport has multiple special instrument approach procedures. Since special instrument approach procedure documentation is not publicly available, Capitol Airspace was unable to assess for associated height constraints. If these procedures are routed over the study area it is possible that their associated obstacle clearance surfaces could be lower than the other surfaces described in this report.

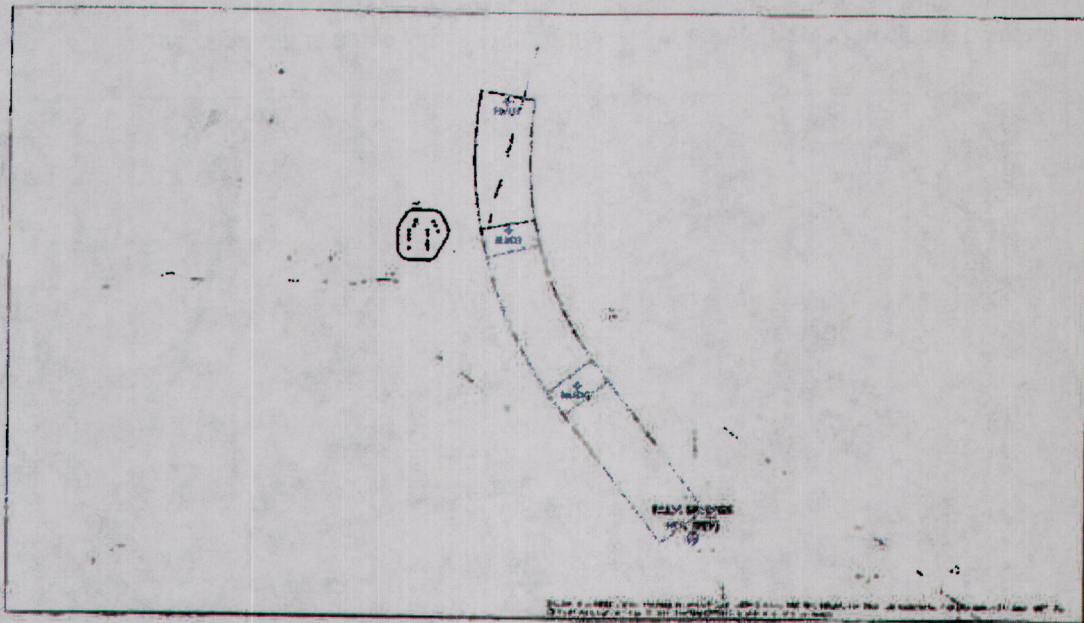


Figure 5: Palm Springs International Airport (PSP) RNAV (RNP) Z Approach to Runway 13R intermediate and final segments

Enroute Airways

Enroute airways provide pilots a means of navigation when flying from airport to airport and are defined by radials between VHF omni-directional ranges (VORs). The FAA publishes minimum altitudes for airways to ensure clearance from obstacles and terrain. The FAA requires that each airway have a minimum of 1,000 feet of obstacle clearance in non-mountainous areas and normally 2,000 feet in mountainous areas.

Proposed structures that exceed enroute airway obstacle clearance surfaces would require an increase to their minimum obstruction clearance altitudes (MOCA) and/or minimum enroute altitudes (MEA). If the FAA determines that this impact would affect a significant volume of operations it could be used as the basis for determination of hazard.

Low altitude enroute airway obstacle clearance surfaces (e.g., *Figure 6*) are in excess of other lower surfaces and should not limit 499 foot AGL wind turbines at any of the proposed locations.

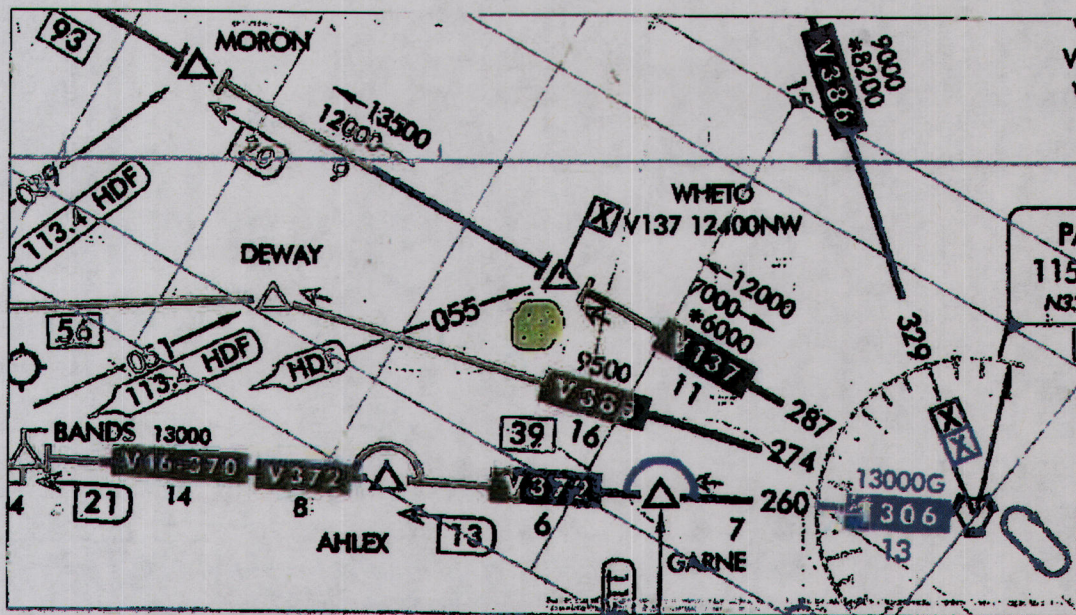


Figure 6: Low altitude enroute chart L-4 with V137 obstacle evaluation area (purple)

Minimum Vectoring/IFR Altitudes

The FAA publishes minimum vectoring altitude (MVA) and minimum instrument flight rules (IFR) altitude charts that define sectors with the lowest altitudes at which air traffic controllers can issue radar vectors to aircraft based on obstacle clearance. The FAA requires that sectors have a minimum of 1,000 feet of obstacle clearance in non-mountainous areas and normally 2,000 feet in mountainous areas.

Proposed structures that exceed minimum vectoring/IFR altitude sector obstacle clearance surfaces would require an increase to the altitudes usable by air traffic control for vectoring aircraft. If the FAA determines that this impact would affect a significant volume of operations, it could result in determinations of hazard.

Minimum vectoring/IFR altitude sector obstacle clearance surfaces (e.g., *Figure 7*) are in excess of other lower surfaces and should not limit 499 foot AGL wind turbines at any of the proposed locations.

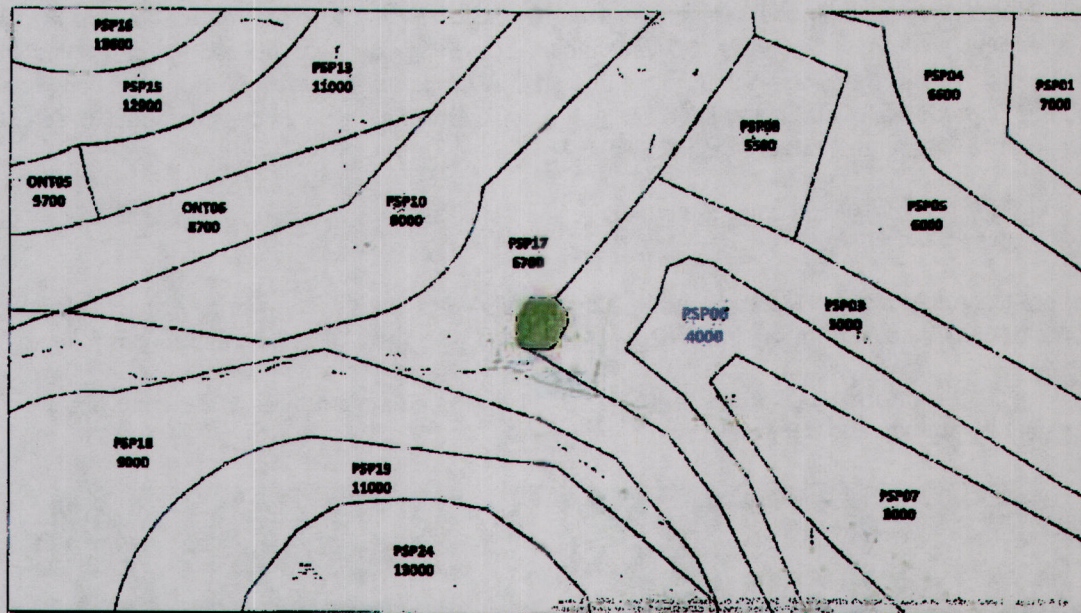


Figure 7: Southern California (SCT) TRACON "FUSION 3" minimum vectoring altitude sectors (black) with Sector PSP06 obstacle evaluation area (hatched blue)

Very High Frequency (VHF) Omni-Directional Range (VOR)

The FAA has established 0.60° (Conventional VOR) and 0.75° (Doppler VOR) screening angles in order to identify proposed structures that may have a negative impact on navigational aids. This surface extends upward and outward from the navigational aid to a distance of up to 8 nautical miles. Proposed wind turbines that exceed this surface may interfere with the services provided by the navigational aid. If the FAA determines this impact to be significant it can be used as the basis for a determination of hazard.

VOR screening surfaces do not overlie the Painted Hills Wind Energy Repowering Project. As a result, it is unlikely that proposed wind turbines would require in depth review by the FAA. In accordance with FAA Technical Operations OEAAA Desk Guide Version 1.2.1, §6.2.1(b)(1), FAA Technical Operations should issue a 'No Objection.'

Long Range and NEXRAD Radar

While Capitol Airspace did not assess for electromagnetic interference on communications, navigational or surveillance systems, the FAA/DOD preliminary screening tool was utilized to determine likely electromagnetic interference on long range and NEXRAD radars.² According to the Long Range Radar tool, the Painted Hills Wind Energy Repowering Project is located in an area designated as 'Green' (left, *Figure 8*). The FAA defines this area as follows:

Green No anticipated impact to Air Defense and Homeland Security radars. Aeronautical study required.

Further, according to the NEXRAD tool, the Painted Hills Wind Energy Repowering Project is located in an area designated as 'Green: No Impact Zone' (right, *Figure 8*). The FAA defines this area as follows:

Green No Impact Zone. Impacts not likely. NOAA will not perform a detailed analysis, but would still like to know about the project.

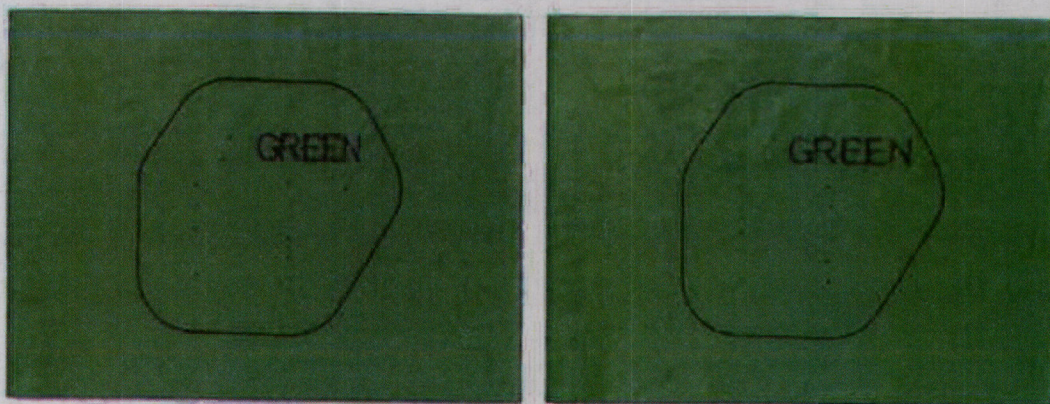


Figure 8: Long range (left) and NEXRAD (right) radar screening tool results

² The preliminary screening tool does not consider turbine height nor does it consider the cumulative impact of existing turbines in proximity to the area studied.

Military Airspace and Training Routes

Since the FAA does not protect for military airspace or training routes, impact on their operations cannot result in a determination of hazard. However, the FAA will notify the military of proposed wind turbines located within these segments of airspace. If the planned development area is located on federal land, impact on military airspace or training routes may result in the denial of permits by the Bureau of Land Management.

Military airspace and training routes do not overlie the Painted Hills Wind Energy Repowering Project. Therefore, these segments of airspace should not result in military objections to proposed wind development.

Conclusion

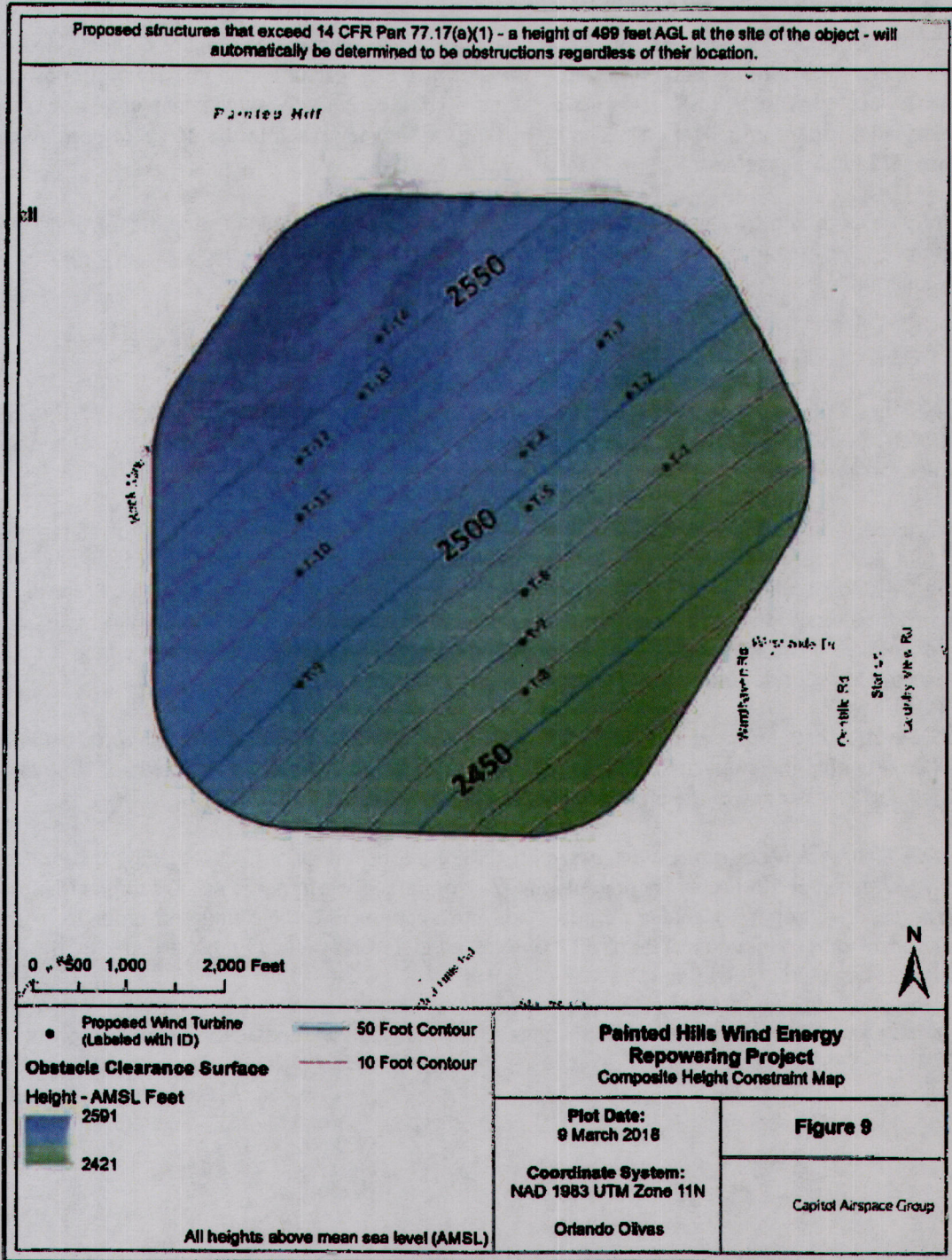
At 499 feet AGL, proposed wind turbines will not exceed 14 CFR Part 77.17(a)(1), 77.17(a)(2), or 77.19/21/23 Imaginary surfaces (*Figure 2*). However, proposed wind turbines must remain below obstacle clearance surfaces in order to avoid the likelihood of determinations of hazard.

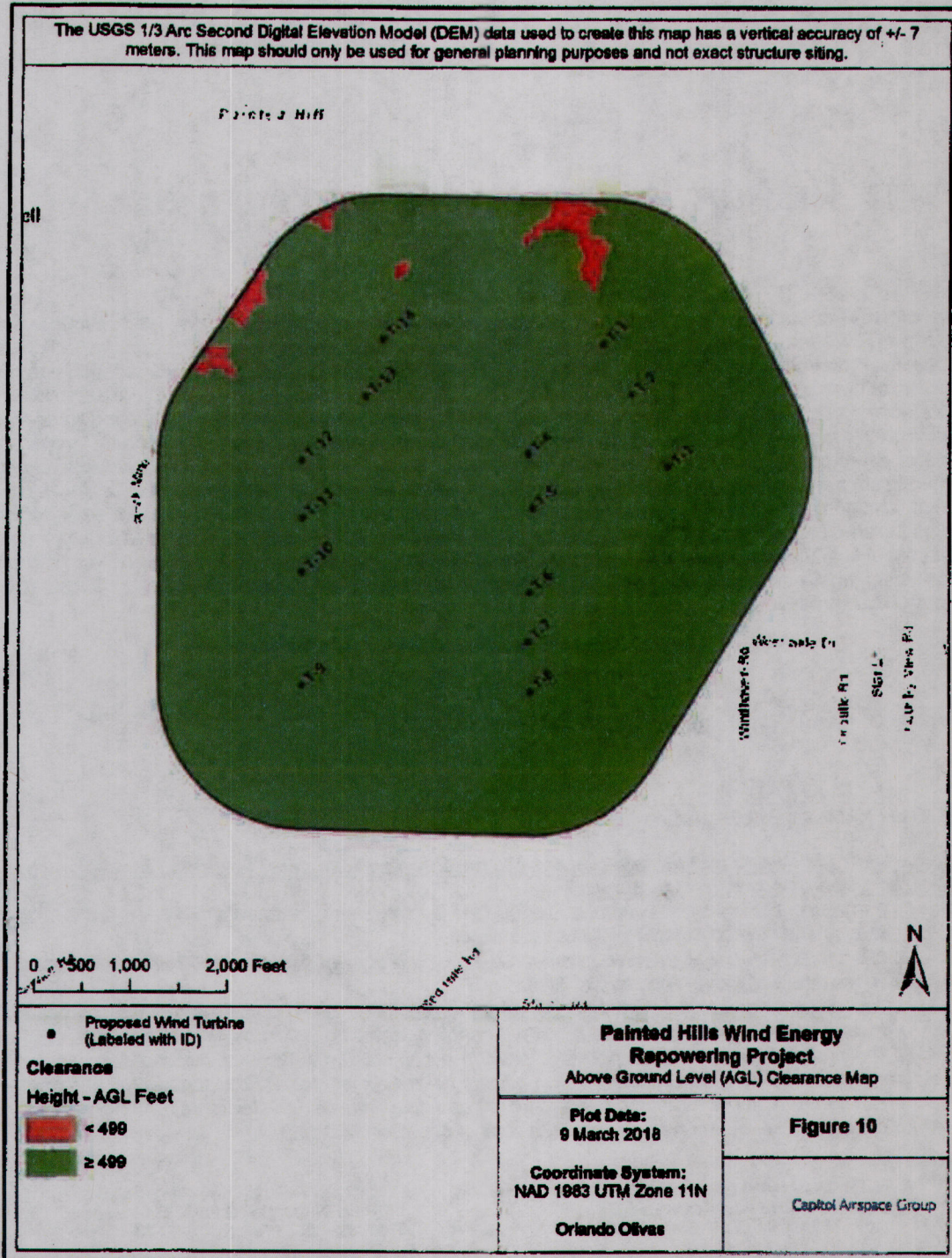
Obstacle clearance surfaces overlying the Painted Hills Wind Energy Repowering Project range from 2,421 to 2,591 feet AMSL (*Figure 9*) and are associated with the Palm Springs International Airport Cathedral One standard instrument departure procedure from Runway 31L (*Figure 4*). Proposed wind turbines that exceed this surface would require an increase to the Runway 31L minimum climb gradient and/or routing. If the FAA determines this impact to constitute a substantial adverse effect, it could be used as the basis for determinations of hazard.

USGS elevation data indicates that this surface could limit wind development on higher terrain in a few small areas within the study area (red areas, *Figure 10*). However, this surface should not limit 499 foot AGL wind turbines at any of the proposed locations (green area, *Figure 10*).

The AGL Clearance Map (*Figure 10*) is based on USGS National Elevation Dataset (NED) 1/3 Arc Second data which has a vertical accuracy of generally +/- 7 meters. Therefore, the AGL Clearance Map should only be used for general planning purposes and not exact wind turbine siting. In order to avoid the likelihood of determinations of hazard, proposed wind turbine heights must adhere to the height constraints depicted in the Composite Map (*Figure 9*).

If you have any questions regarding the findings of this study, please contact *Orlando Olivas* or *Ben Doyle* at (703) 256-2485.







**RIVERSIDE COUNTY
PLANNING DEPARTMENT**

*Charlene Leach, P.E.
Assistant TLMA Director*

**INDEMNIFICATION AGREEMENT REQUIRED FOR ALL
PROJECTS**

The owner(s) of the property, at their own expense, agree to defend, indemnify and hold harmless the County of Riverside and its agents, officers, and employees from and against any lawsuit, claim, action, or proceeding (collectively referred to as "proceeding") brought against the County of Riverside, its agents, officers, attorneys and employees to attack, set aside, void, or annul the County's decision to approve any tentative map (tract or parcel), revised map, map minor change, reversion to acreage, conditional use permit, public use permit, surface mining permit, WECS permit, hazardous waste siting permit, temporary outdoor event permit, plot plan, substantial conformance, revised permit, variance, setback adjustment, general plan amendment, specific plan, specific plan amendment, specific plan substantial conformance, zoning amendments, and any associated environmental documents. This defense and indemnification obligation shall include, but not limited to, damages, fees and/or costs awarded against the County, if any, and cost of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by applicant, property owner, the County, and/or the parties initiating or bringing such proceeding.

Kathleen Ann Guzik 10/23/18
Property Owner(s) Signature(s) and Date

Kathleen Ann Guzik
PRINTED NAME of Property Owner(s)

If the property is owned by multiple owners, the paragraph above must be signed by each owner. Attach additional sheets, if necessary.

If the property owner is a corporate entity, Limited Liability Company, partnership or trust, the following documentation must also be submitted with this application:

- **If the property owner is a limited partnership, provide a copy of the LP-1, LP-2 (if an amendment) filed with the California Secretary of State.**
- **If the property owner is a general partnership, provide a copy of the partnership agreement documenting who has authority to bind the general partnership and to sign on its behalf.**
- **If the property owner is a corporation, provide a copy of the Articles of Incorporation and/or a corporate resolution documenting which officers have authority to bind the corporation and to sign on its behalf. The corporation must also be in good standing with the California Secretary of State.**
- **If the property owner is a trust, provide a copy of the trust certificate.**

Riverside Office • 4080 Lemon Street, 12th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 • Fax (951) 955-1811

Desert Office • 77-588 El Duna Court, Suite H
Palm Desert, California 92211
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Charlene Leach, P.E. Assistant T/MA Director

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Property Owner(s) Signature(s) and Date


Jason Erickson

23-Oct-2018

PRINTED NAME of Property Owner(s)

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Riverside, California 92502-1408 Palm Desert, California 92211

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Charles Leach, P.E.
Assistant TEMA Director

RIVERSIDE COUNTY PLANNING DEPARTMENT

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 10-23-18

Property Owner(s) Signature(s) and Date

JAMES D. ETCHASON

PRINTED NAME of Property Owner(s)

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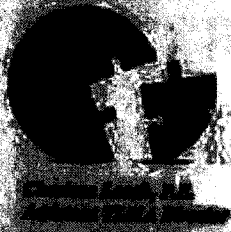
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RIVERSIDE COUNTY PLANNING DEPARTMENT

INDEMNIFICATION AGREEMENT REQUIRED FOR ALL PROJECTS

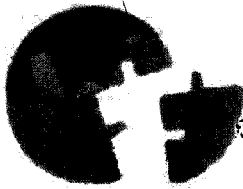
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 10-23-2018
Property Owner(s) Signature(s) and Date

San David Etchison
PRINTED NAME of Property Owner(s)

- If the project is owned by multiple owners, the agreement above must be signed by each owner. Attach additional sheets, if necessary.
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 - If the property owner is a limited partnership, provide a copy of the LP-1, LP-2 (if an amendment) filed with the California Secretary of State.
 - If the property owner is a general partnership, provide a copy of the partnership agreement.
 - If the property owner is a trust, provide a copy of the trust agreement.
 - If the property owner is a corporation, provide a copy of the articles of incorporation and the bylaws.
 - If the property owner is a limited liability company, provide a copy of the operating agreement.

Planning Department
1000 University Ave., Suite 1000
Riverside, CA 92507
Phone: (951) 952-2000
Fax: (951) 952-2001
www.riversideca.gov/planning



Steve Weis, AICP
Planning Director

RIVERSIDE COUNTY PLANNING DEPARTMENT

APPLICATION FOR COMMERCIAL WIND ENERGY CONVERSION SYSTEMS (WECS) PERMIT

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.

APPLICATION INFORMATION:

Applicant Name: Painted Hills Wind, LLC

Contact Person: Robert Skaggs E-Mail: rskaggs@terra-gen.com

Mailing Address: 11455 El Camino Real, Suite 160
San Diego CA 92130
City State ZIP

Daytime Phone No: (858) 764-3737 Fax No: (858) 764-3721

Engineer/Representative Name: Westwood Professional Services

Contact Person: Steve Battaglia E-Mail: steve.battaglia@westwoodps.co

Mailing Address: 12701 Whitewater Drive, Suite 300
Minnetonka MN 55343
City State ZIP

Daytime Phone No: (952) 906-7405 Fax No: ()

Property Owner Name: See Exhibit F, Property Owners, Deed & Agency Authorization Letter

Contact Person: _____ E-Mail: _____

Mailing Address: _____
Street

City State ZIP

Check this box if additional persons or entities have an ownership interest in the subject property(ies) in addition to that indicated above; and attach a separate sheet that references the property address and/or assessor's parcel number and list those names, mailing addresses, phone and fax numbers, and email addresses; and provide signatures of those persons or entities having an interest in the real property(ies) involved in this application.

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Palm Desert, California 92211
(760) 863-8277 • Fax (760) 863-7655

APPLICATION FOR COMMERCIAL WECS

The Planning Department will primarily direct communications regarding this application to the person identified above as the Applicant. The Applicant may be the property owner, representative, or other assigned agent.

AUTHORIZATION FOR CONCURRENT FEE TRANSFER

The applicant authorizes the Planning Department and TLMA to expedite the refund and billing process by transferring monies among concurrent applications to cover processing costs as necessary. Fees collected in excess of the actual cost of providing specific services will be refunded. If additional funds are needed to complete the processing of this application, the applicant will be billed, and processing of the application will cease until the outstanding balance is paid and sufficient funds are available to continue the processing of the application. The applicant understands the deposit fee process as described above, and that there will be NO refund of fees which have been expended as part of the application review or other related activities or services, even if the application is withdrawn or the application is ultimately denied.

AUTHORITY FOR THIS APPLICATION IS HEREBY GIVEN:

I certify that I am/we are the record owner(s) or authorized agent, and that the information filed is true and correct to the best of my knowledge, and in accordance with Govt. Code Section 65106, acknowledge that in the performance of their functions, planning agency personnel may enter upon any land and make examinations and surveys, provided that the entries, examinations, and surveys do not interfere with the use of the land by those persons lawfully entitled to the possession thereof.

(If an authorized agent signs, the agent must submit a letter signed by the owner(s) indicating authority to sign on the owner(s)'s behalf, and if this application is submitted electronically, the "wet-signed" signatures must be submitted to the Planning Department after submittal but before the subdivision is ready for public hearing.)

Robert Skerens
PRINTED NAME OF PROPERTY OWNER(S)


SIGNATURE OF PROPERTY OWNER(S)

PRINTED NAME OF PROPERTY OWNER(S)

SIGNATURE OF PROPERTY OWNER(S)

If the subject property is owned by persons who have not signed as owners above, attach a separate sheet that references the application case number and lists the printed names and signatures of all persons having an interest in the property.

PROPERTY INFORMATION:

Assessor's Parcel Number(s): 516-030-004, 516-030-008, 516-030-014, 516-030-015

Approximate Gross Acreage: 600

General location (nearby or cross streets): North of 16th Ave., South of

N/A (vacant land), East of Whitewater Canyon Rd., West of Windhaven Rd.

APPLICATION FOR COMMERCIAL WECS

Proposal (describe the project):

See Exhibit E. Property Information

Indicate total rated power output of the WECS: Approximately 45 MW

Are there previous development applications filed on the subject property: Yes No

If yes, provide Application No(s). WECS 25, 52, and 53 Permits

(e.g. Tentative Parcel Map, Zone Change, etc.)

Initial Study (EA) No. (if known) Unknown

EIR No. (if applicable): Unknown

Have any special studies or reports, such as a traffic study, biological report, archaeological report, geological or geotechnical reports, been prepared for the subject property? Yes No

If yes, indicate the type of report(s) and provide a signed copy(ies): Bio, AQ, Cultural, Visual, Noise

Is the project located within 1,000 feet of a military installation, beneath a low-level flight path or within special use airspace as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined by Government Code Section 85944? Yes No

Is this an application for a development permit? Yes No

If the project located within either the Santa Ana River/San Jacinto Valley watershed, the Santa Margarita River watershed, or the Whitewater River watershed, check the appropriate checkbox below.

If not known, please refer to Riverside County's Map My County website to determine if the property is located within any of these watersheds (search for the subject property's Assessor's Parcel Number, then select the "Geographic" Map Layer - then select the "Watershed" sub-layer)

If any of the checkboxes are checked, click on the adjacent hyperlink to open the applicable Checklist Form. Complete the form and attach a copy as part of this application submittal package.

Santa Ana River/San Jacinto Valley

Santa Margarita River

Whitewater River

If the applicable Checklist has concluded that the application requires a preliminary project-specific Water Quality Management Plan (WQMP), such a plan shall be prepared and included with the submittal of this application.

APPLICATION FOR COMMERCIAL WECS

HAZARDOUS WASTE SITE DISCLOSURE STATEMENT

Government Code Section 65962.5 requires the applicant for any development project to consult specified state-prepared lists of hazardous waste sites and submit a signed statement to the local agency indicating whether the project is located on or near an identified site. Under the statute, no application shall be accepted as complete without this signed statement.

I (we) certify that I (we) have investigated our project with respect to its location on or near an identified hazardous waste site and that my (our) answers are true and correct to the best of my (our) knowledge. My (Our) investigation has shown that:

The project is not located on or near an identified hazardous waste site.

The project is located on or near an identified hazardous waste site. Please list the location of the hazardous waste site(s) on an attached sheet.

Owner/Representative (1) _____

Date

6/15/18

Owner/Representative (2) _____

Date _____

APPLICATION FOR COMMERCIAL WECS

PROJECT DESCRIPTION INFORMATION SHEET (Provide attached sheet(s) if necessary)	
1. Manufacturer(s) Name:	General Electric, Vestas, or similar commercially available
2. Wind Machine Model(s):	TBD
3. Physical Specification:	
a. Total height (Blade tip at 12 O'clock position):	Up to 500 feet
b. Tower Height:	Between 69m and 94m, depending on model selected
c. Rotor Diameter:	Between 112m and 130m, depending on model selected
d. Minimum Blade Height above Ground or foundation platform (whichever is less - if WECS is located on an existing building, such as a roof, indicate total height of structure with WECS and roof clearance distance):	Between 13m and 38m, depending on model selected
e. Weight of blades:	TBD pending model selection
f. Total machine and tower weight (in tons):	TBD pending model selection
g. Width of foundation:	TBD pending model selection
h. Depth of foundation:	TBD pending model selection
i. Height of foundation:	TBD pending model selection
j. Weight of foundation:	TBD pending model selection
k. Tower construction material(s):	Tubular Steel
l. Blade construction material(s)	Fiberglass reinforced epoxy, carbon fibers and solid metal tip
m. Internal bearing and turbine construction material(s):	Steel, cast iron, composites
4. Machine Coloration:	
a. Color of tower:	Light grey
b. Color of turbine:	Light grey
c. Color of blade:	Light grey
5. Performance Specifications:	
a. Rotation speed (RPM):	Maximum of approx. 17.6 RPM, depending on model selected
b. Blade tip speed:	Maximum of approx. 107 m/s, depending on model selected
c. Cut in and out speed (if any):	Approx. 3.0 m/s cut in and approx. 25.0 m/s cut out.
d. Rated power output (name plate or power curve):	2 MW to 4.2 MW, depending on model selected
e. Rated wind speed:	IEC Class IA/IB/IIA/IIB, depending on model selected

APPLICATION FOR COMMERCIAL WECS

PROJECT DESCRIPTION INFORMATION SHEET (Provide attached sheet(s) if necessary)	
f. Rotor orientation: Horizontal or Vertical:	Three-bladed, upwind, horizontal axis
g. Estimated useful life of machine:	30+ years
6. Noise generation characteristics:	
a. At rated power output (name plate or power curve):	Maximum of 109.6 dBA at Hub Height, depending on model
b. Maximum speed:	Maximum of 109.6 dBA at Hub Height, depending on model
7. Indicate type of overspeed control system:	Electric blade pitch, remote & local manual emergency stop function
8. Are any components certified by a recognized national testing laboratory (i.e., U.L., etc.)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No. If yes, please explain.	Wind turbine type certification issued by DNV GL. All components certified for use in USA.
9. Indicate the site preparation schedule with expected dates of WECS installation and whether or not the project will be broken into phases.	Decommissioning/removal of existing turbines expected to occur in fall 2018 - spring 2019 for Phase 1 and fall 2019 - spring 2020 for Phase 2. WECS installation expected to occur throughout 2019.
10. Indicate potential distance of blade throw and probability of occurrence	Possibility of > 200 foot blade throw is very low.
11. Transmission System:	
a. Location point of interconnection with utility:	SCE's Devers Substation 115 kV switch rack. See Exhibit K.
b. Are additional transmission lines required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
c. If new lines are required, indicate total length of extension:	
d. If new lines required, attach an exhibit map indicating route:	
12. Have you obtained easements for wind access from adjacent property owner(s)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If yes, please note on site plan and attach any related documentation.)	
13. Security and Safety:	
a. What other safety devices are proposed (i.e., fencing, anti-climb devices, etc.)	Access ladder located inside locked tubular tower

APPLICATION FOR COMMERCIAL WECS

DUST CONTROL PLAN SUMMARIZATION SHEET

I, Robert Skaggs, certify that I am the Commercial WECS applicant, or his/her authorized agent and that the attached Dust Control Plan was prepared for the property known as (Assessor's Parcel Number(s)):
516-030-004, 516-030-008, 516-030-014, 516-030-015

The Dust Control Plan studies the impacts of the WECS project in all its known aspects both on and off-site regarding dust and blowsand control, and minimization of wind and water erosion pursuant to the Riverside County Ordinance No. 348 and No. 484, and the California Environmental Quality Act (CEQA), and the report format outlined herein.

The specific measures that will be, and are agreed to be, implemented are summarized below and may be more particularly described in the attached study (attach additional sheets if necessary.)

See Exhibit I. Dust Control Management Plan

I understand the purpose of the above measures is to maintain air quality standards and to prevent a public dust and blowsand problem. I further agree that Riverside County may take necessary actions to abate any and all unlawful public nuisances caused by this WECS project.

Robert Skaggs

Printed Name

Signature

6/15/18
Date

APPLICATION FOR COMMERCIAL WECS

MICROWAVE COMMUNICATIONS LINK OWNERS NOTIFICATION CERTIFICATION

I, Robert Skaggs, certify that on 06/15/18, the attached microwave communications link owners list within 2 miles of the attached WECS application were notified of this application as required by Riverside County Ordinance No. 348. Copies of the written notification are also attached. The microwave communications link owners list was prepared by Come and said list is a complete and true compilation of owners of microwave communications links within 2 miles of the property involved in the WECS application.

I further certify that the information filed is true and correct to the best of my knowledge; I understand that incorrect or erroneous information may be grounds for rejection or denial of this application.

Robert Skaggs

PRINTED NAME

Signature

06/15/18

Dated

Case Number

Vice President

Title/Registration

11455 El Camino Real, Suite 160

Mailing Address

San Diego

CA

92130

City

State

ZIP

(858) 764-3737

Phone Number

(858) 764-3721

Fax Number

rskaggs@terra-gen.com

E-Mail

Checklist for Identifying Projects Requiring a Project-Specific Water Quality Management Plan (WQMP) within the Whitewater River Region		
Project File No.		
Project Name:	Painted Hills Wind Energy Repowering Project	
Project Location:	See Exhibit A. Site Plan, and Exhibit E. Project Information	
Project Description:	See Exhibit E. Project Information	
Project Applicant Information:	See Exhibit A. Site Plan	
Proposed Project Consists of New Construction on a Previously Disturbed or Undisturbed Parcel, and includes:	YES	NO
Single-family hillside residences that create 10,000 square feet or more of impervious area where the natural slope is 25% or greater.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Single-family hillside residences that create 10,000 square feet of impervious area where the natural slope is 10% or greater where erosive soil conditions are known.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Commercial and Industrial developments of 100,000 square feet or more.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Automotive repair shops (Standard Industrial Classification (SIC) Codes 5013-Motor vehicle supplies or parts, 5014-Tires & Tubes, 5541-Gasoline Service Stations, 7532-Top, Body & Upholstery Repair Shops and Paint Shops, 7533-Automotive Exhaust System Repair Shops, 7534-Tire Retreading and Repair Shops, 7536-Automotive Glass Replacement Shops, 7537-Automotive Transmission Repair Shops, 7538-General Automotive Repair Shops, 7539-Automotive Repair Shops, not elsewhere classified)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Retail gasoline outlets disturbing greater than 5,000 square feet.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Restaurants disturbing greater than 5,000 square feet. (Standard Industrial Classification (SIC) Code 5812: Establishments primarily engaged in the retail sale of prepared food and drinks for on-premise or immediate consumption, including, but not limited to: Automats (eating places), Beaneries, Box lunch stands, Buffets (eating places), Cafes, Cafeterias, Carry-out restaurants, Caterers, Coffee shops, Commissary restaurants, Concession stands, prepared food (e.g., in airports and sports arenas), Contract feeding, Dairy bars, Diners (eating places), Dining rooms, Dinner theaters, Drive-in restaurants, Fast food restaurants, Food bars, Food service (institutional), Frozen custard stands, Grills, (eating places), Hamburger stands, Hot dog (frankfurter) stands, Ice cream stands, Industrial feeding, Lunch bars, Lunch counters, Luncheonettes, Lunchrooms, Oyster bars, Pizza parlors, Pizzerias, Refreshment stands, Restaurants, Sandwich bars or shops, Snack shops, Soda fountains, Soft drink stands, Submarine sandwich shops, and Tea rooms.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Home subdivisions with 10 or more housing units.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parking lots of 5,000 square feet or more, or with 25 or more parking spaces, and potentially exposed to Urban Runoff.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DETERMINATION: Check the box for the applicable determination.		
If <u>any</u> question answered "YES" <input type="checkbox"/> Project requires a project-specific WQMP.		
If <u>all</u> questions answered "NO" <input checked="" type="checkbox"/> Project requires incorporation of Site Design Best Management Practices (BMPs) and Source Control BMPs imposed through Conditions of Approval or permit conditions.		



**COUNTY OF RIVERSIDE
TRANSPORTATION AND LAND MANAGEMENT AGENCY**



Juan C. Perez
Director of Transportation and Land Management Agency

Patricia Romo
Assistant Director,
Transportation Department

Steven A. Weiss
Planning Director,
Planning Department

Mike Lara
Building Official,
Building & Safety Department

Greg Flannery
Code Enforcement Official,
Code Enforcement Department

LAND USE and PERMIT APPLICATION PROCESSING AGREEMENT
Agreement for Payment of Costs of Application Processing

TO BE COMPLETED BY APPLICANT:

This agreement is by and between the County of Riverside, hereafter "County of Riverside",
and Painted Hills Wind, LLC hereafter "Applicant" and Elchason et al. (refer to Exhibit E for complete list) "Property Owner".

Description of application/permit use:
Refer to Exhibit E, Project Information.

If your application is subject to Deposit-based Fee, the following applies

Section 1. Deposit-based Fees

Purpose: The Riverside County Board of Supervisors has adopted ordinances to collect "Deposit-based Fees" for the costs of reviewing certain applications for land use review and permits. The Applicant is required to deposit funds to initiate staff review of an application. The initial deposit may be supplemented by additional fees, based upon actual and projected labor costs for the permit. County departments draw against these deposited funds at the staff hourly rates adopted by the Board of Supervisors. The Applicant and Property Owner are responsible for any supplemental fees necessary to cover any costs which were not covered by the initial deposit.

Section 2. Applicant and Property Owner Responsibilities for Deposit-based Fee Applications

- A. Applicant agrees to make an initial deposit in the amount as indicated by County ordinance, at the time this Agreement is signed and submitted with a complete application to the County of Riverside. Applicant acknowledges that this is an initial deposit and additional funds may be needed to complete their case. The County of Riverside will not pay interest on deposits. Applicant understands that any delays in making a subsequent deposit from the date of written notice requesting such additional deposit by County of Riverside, may result in the stoppage of work.
- B. Within 15 days of the service by mail of the County of Riverside's written notice that the application permit deposit has been reduced to a balance of less than 20% of the initial deposit or that the deposit is otherwise insufficient to cover the expected costs to completion, the Applicant agrees to make an additional payment of an amount as determined by the County of Riverside to replenish the deposit. Please note that the processing of the application or permit may stop if the amount on deposit has been expended. The Applicant agrees to continue making such payments until the County of Riverside is reimbursed for all costs related to this application or permit. The County of Riverside is entitled to recover its costs, including attorney's fees, in collecting unpaid accounts that would have been drawn on the deposit were it not depleted.
- C. The Property Owner acknowledges that the Applicant is authorized to submit this agreement and related application(s) for land use review or permit on this property. The Property Owner also acknowledges that should the Applicant not reimburse the County of Riverside for all costs related to this application or permit, the Property Owner shall become immediately liable for these costs which shall be paid within 15 days of the service by mail of notice to said property Owner by the County.

- D. This Agreement shall only be executed by an authorized representative of the Applicant and the Property Owner. The person(s) executing this Agreement represents that he/she has the express authority to enter into this agreement on behalf of the Applicant and/or Property Owner.
- E. This Agreement is not assignable without written consent by the County of Riverside. The County of Riverside will not consent to assignment of this Agreement until all outstanding costs have been paid by Applicant.
- F. Deposit statements, requests for deposits or refunds shall be directed to Applicant at the address identified in Section 4.

Section 3. To ensure quality service, Applicant is responsible to provide one-week written notice to the County of Riverside Transportation and Land Management Agency (TLMA) Permit Assistance Centers if any of the information below changes.

Section 4. Applicant and Owner information

1. PROPERTY INFORMATION:

Assessors Parcel Number(s): 516-030-004, 516-030-008, 516-030-014, 516-030-015

Property Location or Address:

Generally north of 16th Ave., east of Whitewater Canyon Rd., and west of Windhaven Rd.

2. PROPERTY OWNER INFORMATION:

Property Owner Name: Refer to Exhibit E for a complete list Phone No.: _____

Firm Name: _____ Email: _____

Address: _____


3. APPLICANT INFORMATION:


Applicant Name: Robert Skaggs Phone No.: (858) 764-3737

Firm Name: Painted Hills Wind, LLC Email: rskaggs@terra-gen.com

Address (if different from property owner)
11455 El Camino Real, Suite 160
San Diego, CA 92130

4. SIGNATURES:

Signature of Applicant:  Date: 6/15/18
 Print Name and Title: Robert Skaggs Vice President

Signature of Property Owner:  Date: 6/15/18
 Print Name and Title: Robert Skaggs Authorized Agent

Signature of the County of Riverside, by _____ Date: _____
 Print Name and Title: _____

FOR COUNTY OF RIVERSIDE USE ONLY	
Application or Permit (s)#: _____	
Set #: _____	Application Date: _____



Steve Weiss, AICP
Planning Director

RIVERSIDE COUNTY PLANNING DEPARTMENT

APPLICATION FOR LAND USE AND DEVELOPMENT

CHECK ONE AS APPROPRIATE:

- PLOT PLAN PUBLIC USE PERMIT VARIANCE
 CONDITIONAL USE PERMIT TEMPORARY USE PERMIT

REVISED PERMIT Original Case No. _____

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.

APPLICATION INFORMATION

Applicant Name: Painted Hills Wind, LLC

Contact Person: Robert Skaggs E-Mail: rskaggs@terra-gen.com

Mailing Address: 11455 El Camino Real, Suite 160

San Diego CA 92130
City State ZIP

Daytime Phone No: (858) 764-3737 Fax No: ()

Engineer/Representative Name: Westwood Professional Services

Contact Person: Steve Battaglia E-Mail: steve.battaglia@westwoodps.co

Mailing Address: 12701 Whitewater Drive, Suite 300

Minnnetonka MN 55343
City State ZIP

Daytime Phone No: (952) 906-7405 Fax No: ()

Property Owner Name: See Exhibit F, Property Owners, Deed & Agency Authorization Letter

Contact Person: _____ E-Mail: _____

Mailing Address: _____

Street

City State ZIP

Daytime Phone No: () Fax No: ()

Riverside Office • 4080 Lemon Street, 12th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 • Fax (951) 955-1811

Desert Office • 77-588 El Duna Court, Suite H
Palm Desert, California 92211
(760) 863-8277 • Fax (760) 863-7555

"Planning Our Future... Preserving Our Past"

APPLICATION FOR LAND USE AND DEVELOPMENT

Check this box if additional persons or entities have an ownership interest in the subject property(ies) in addition to that indicated above; and attach a separate sheet that references the use permit type and number and list those names, mailing addresses, phone and fax numbers, and email addresses; and provide signatures of those persons or entities having an interest in the real property(ies) involved in this application.

AUTHORITY FOR THIS APPLICATION IS HEREBY GIVEN:

I certify that I am/we are the record owner(s) or authorized agent, and that the information filed is true and correct to the best of my knowledge, and in accordance with Govt. Code Section 65105, acknowledge that in the performance of their functions, planning agency personnel may enter upon any land and make examinations and surveys, provided that the entries, examinations, and surveys do not interfere with the use of the land by those persons lawfully entitled to the possession thereof.

(If an authorized agent signs, the agent must submit a letter signed by the owner(s) indicating authority to sign on the owner(s)'s behalf, and if this application is submitted electronically, the "wet-signed" signatures must be submitted to the Planning Department after submittal but before the use permit is ready for public hearing.)

Robert Skaggs

PRINTED NAME OF PROPERTY OWNER(S)


SIGNATURE OF PROPERTY OWNER(S)

PRINTED NAME OF PROPERTY OWNER(S)

SIGNATURE OF PROPERTY OWNER(S)

The Planning Department will primarily direct communications regarding this application to the person identified above as the Applicant. The Applicant may be the property owner, representative, or other assigned agent.

AUTHORIZATION FOR CONCURRENT FEE TRANSFER

The applicant authorizes the Planning Department and TLMA to expedite the refund and billing process by transferring monies among concurrent applications to cover processing costs as necessary. Fees collected in excess of the actual cost of providing specific services will be refunded. If additional funds are needed to complete the processing of this application, the applicant will be billed, and processing of the application will cease until the outstanding balance is paid and sufficient funds are available to continue the processing of the application. The applicant understands the deposit fee process as described above, and that there will be NO refund of fees which have been expended as part of the application review or other related activities or services, even if the application is withdrawn or the application is ultimately denied.

PROPERTY INFORMATION:

Assessor's Parcel Number(s): 516-030-004, 516-030-008, 516-030-014, 516-030-015

Approximate Gross Acreage: 600

General location (nearby or cross streets): North of 16th Avenue, South of

N/A (vacant land), East of Whitewater Canyon Rd., West of Windhaven Rd.

APPLICATION FOR LAND USE AND DEVELOPMENT

PROJECT PROPOSAL:

Describe the proposed project.

See Exhibit E, Project Information.

Identify the applicable Ordinance No. 348 Section and Subsection reference(s) describing the proposed land use(s): 21.74a

Number of existing lots: 4

EXISTING Buildings/Structures: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>						
No.*	Square Feet	Height	Stories	Use/Function	To be Removed	Bldg-Permit No.
1	N/A	<200 ft	N/A	+/- 291 existing wind turbines	<input checked="" type="checkbox"/>	
2	N/A	<100 ft	N/A	existing overhead collection lines	<input type="checkbox"/>	
3	~ 20k	<35 ft	N/A	existing substation	<input type="checkbox"/>	
4					<input type="checkbox"/>	
5					<input type="checkbox"/>	
6					<input type="checkbox"/>	
7					<input type="checkbox"/>	
8					<input type="checkbox"/>	
9					<input type="checkbox"/>	
10					<input type="checkbox"/>	

Place check in the applicable row, if building or structure is proposed to be removed.

PROPOSED Buildings/Structures: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				
No.*	Square Feet	Height	Stories	Use/Function
1	N/A	500 ft	N/A	Up to 14 new wind turbines
2	N/A	309 ft	N/A	Up to three temporary meteorological towers
3	N/A	309 ft	N/A	Up to two permanent meteorological towers
4				
5				
6				
7				
8				
9				
10				

PROPOSED Outdoor Uses/Areas: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
No.*	Square Feet	Use/Function
1	N/A	New access roads
2	N/A	New temporary laydown yard
3	N/A	New project collection lines
4		
5		

APPLICATION FOR LAND USE AND DEVELOPMENT

6		
7		
8		
9		
10		

* Match to Buildings/Structures/Outdoor Uses/Areas identified on Exhibit "A".

Check this box if additional buildings/structures exist or are proposed, and attach additional page(s) to identify them.)

Related cases filed in conjunction with this application:

WECS 25, 52, 53 Permits

Are there previous development applications filed on the subject property: Yes No

If yes, provide Application No(s). WECS 25, 52, 53 Permits
(e.g. Tentative Parcel Map, Zone Change, etc.)

Initial Study (EA) No. (if known) Unknown EIR No. (if applicable): Unknown

Have any special studies or reports, such as a traffic study, biological report, archaeological report, geological or geotechnical reports, been prepared for the subject property? Yes No

If yes, indicate the type of report(s) and provide a signed copy(ies): Bio, Cultural, AQ/GHG, Noise, Visual

Is the project located within 1,000 feet of a military installation, beneath a low-level flight path or within special use airspace as defined in Section 21096 of the Public Resources Code, and within an urbanized area as defined by Government Code Section 65944? Yes No

Is this an application for a development permit? Yes No

If the project located within either the Santa Ana River/San Jacinto Valley watershed, the Santa Margarita River watershed, or the Whitewater River watershed, check the appropriate checkbox below.

If not known, please refer to Riverside County's Map My County website to determine if the property is located within any of these watersheds (search for the subject property's Assessor's Parcel Number, then select the "Geographic" Map Layer - then select the "Watershed" sub-layer)

If any of the checkboxes are checked, click on the adjacent hyperlink to open the applicable Checklist Form. Complete the form and attach a copy as part of this application submittal package.

Santa Ana River/San Jacinto Valley

Santa Margarita River

Whitewater River

APPLICATION FOR LAND USE AND DEVELOPMENT

If the applicable Checklist has concluded that the application requires a preliminary project-specific Water Quality Management Plan (WQMP), such a plan shall be prepared and included with the submittal of this application.

HAZARDOUS WASTE AND SUBSTANCES STATEMENT

The development project and any alternatives proposed in this application are contained on the lists compiled pursuant to Section 65962.5 of the Government Code. Accordingly, the project applicant is required to submit a signed statement that contains the following information:

Name of Applicant: Painted Hills Wind, LLC

Address: 11455 El Camino Real, Suite 160, San Diego, CA 92130

Phone number: (858) 764-3737

Address of site (street name and number if available, and ZIP Code): Windhaven Rd., DHS, CA 92282

Local Agency: County of Riverside

Assessor's Book Page, and Parcel Number: 516-030-004, 516-030-008, 516-030-014, 516-030-015

Specify any list pursuant to Section 65962.5 of the Government Code: None per RWQCB/DTSC records

Regulatory Identification number: N/A

Date of list: N/A

Applicant: _____

Date

6/15/18

HAZARDOUS MATERIALS DISCLOSURE STATEMENT

Government Code Section 65850.2 requires the owner or authorized agent for any development project to disclose whether:

1. Compliance will be needed with the applicable requirements of Section 25505 and Article 2 (commencing with Section 25531) of Chapter 6.95 of Division 20 of the Health and Safety Code or the requirements for a permit for construction or modification from the air pollution control district or air quality management district exercising jurisdiction in the area governed by the County. Yes No
2. The proposed project will have more than a threshold quantity of a regulated substance in a process or will contain a source or modified source of hazardous air emissions. Yes No

I (we) certify that my (our) answers are true and correct.

Owner/Authorized Agent (1) _____

Date

6/15/18

Owner/Authorized Agent (2) _____

Date

**Coachella Valley Conservation Commission
Joint Project Review Application**

The 30-day Joint Project Review timeline does not start until the CVCC receives this completed application as well as the required project information from the Permittee.

Date: 6/27/18

SECTION 1

PROPERTY OWNER INFORMATION: PROPERTY OWNER(S)/OWNER'S REPRESENTATIVE

Assessor's Parcel Number(s) (APNs): 516-030-004, 516-030-008, 516-030-014, 516-030-015

A. Property Owner Name(s)/Owner's Representative: Robert Skaggs
Painted Hills Wind, LLC

Mailing Address: 11455 El Camino Real, Suite 160
Street

San Diego CA 92130
City State ZIP

Daytime Phone No: (658) 764-3737 Fax No: ()

E-Mail: rskaggs@terra-gen.com

Robert Skaggs

PRINTED NAME OF PROPERTY OWNER(S)/OWNER'S REPRESENTATIVE

SIGNATURE OF PROPERTY OWNER(S)/OWNER'S REPRESENTATIVE

All signatures must be originals ("wet-signed"). Photocopies of signatures are not acceptable.

SECTION 2

Total Acres Planned for Development: 3.50 acres

Total Acres Planned for Permanent Conservation: N/A

Project Description: See attached Project Description

- Attach an electronic file of the area of Disturbance in CAD or ESRI Shapefile format (applications for a single family dwelling are not required to submit electronic file)
- Attach three (3) copies of a map of the project location.
- Attach three (3) copies of a map delineating;
 - the areas of proposed disturbance on the project site.
 - areas on the project site proposed to be left undisturbed
 - areas of proposed permanent conservation on the project site

The disturbed area is any portion of the earth's surface or natural vegetation that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural condition pursuant to a legally issued land use, grading or building permit. This definition does not include land that has been restored to a native condition, such that the vegetative ground cover and soil characteristics are equal to surrounding conditions.

Examples of Disturbance include but are not limited to: staging areas, areas of side casting, slough, stockpiling, and spillage or otherwise impacted in preparing the property for Development; areas to be disturbed in installing septic tanks and leach fields including the expansion area for leach fields; and any off-site improvements such as roads or sewers required as a condition of approval.

Permanent Conservation is an undeveloped portion of a parcel that is legally described and permanently protected through an appropriate Legal Instrument that allows long-term monitoring and management in perpetuity.

Coachella Valley Conservation Commission

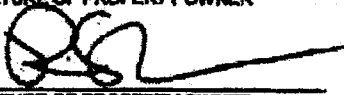
73-710 Fred Waring Drive, Suite 200, Palm Desert, CA 92260 Phone: (760) 348-1127 Fax: (760) 348-8848

SECTION 3

AUTHORITY FOR THIS APPLICATION IS HEREBY GIVEN:

I certify that I am/we are the record owner(s) or authorized agent and that the information filed is true and correct to the best of my knowledge. An authorized agent must submit a letter from the owner(s) indicating authority to sign the application on the owner's behalf. As the owner of record/authorized agent, I hereby authorize the information to be released to Property Owner(s)/Owner's Representative/authorized agent.

All signatures must be originals ("wet-signed"). Photocopies of signatures are not acceptable.

_____ PRINTED NAME OF PROPERTY OWNER	_____ SIGNATURE OF PROPERTY OWNER
<u>Robert Skene</u> PRINTED NAME OF PROPERTY OWNER REPRESENTATIVE	 SIGNATURE OF PROPERTY OWNER REPRESENTATIVE

If the subject property is owned by persons who have not signed as owners above, attach a separate sheet that references the application case number and lists the printed names and signatures of all persons having an interest in the property.

NOTICE OF PUBLIC HEARING
and
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

A PUBLIC HEARING has been scheduled, pursuant to Riverside County Land Use Ordinance No. 348, before the RIVERSIDE COUNTY PLANNING COMMISSION to consider a proposed project in the vicinity of your property, as described below:

COMMERCIAL WECS PERMIT NO. 180001/VARIANCE CASE NO. 180003 – Intent to Adopt a Mitigated Negative Declaration – CEQ180059 – Applicant: Painted Hills Wind, LLC – Engineer/Representative: Westwood Professional Services – Fifth Supervisorial District – Western Coachella Valley Area Plan – Open Space: Rural (OS-RUR) – Zoning: Wind Energy (W-E) – 600-Acres – Location: The site is located in Painted Hills northerly of Interstate 10, and westerly of Highway 62; more specifically, northerly of 18th Avenue, easterly of Whitewater Canyon Road, and westerly of Windhaven Road at terminus of Painted Hills Road – **REQUEST: Commercial WECS Permit No. 180001** proposes to decommission and remove approximately 291 existing commercial wind turbines and install up to 14-new commercial wind turbines up to 499-feet in height with a per turbine generating capacity of between 2.0 megawatts (MW) and 4.2 MW on land within the Wind Energy Resource (W-E) Zone ("Project"). The existing wind turbines were originally installed and have been operating since the mid-1980's. The Project also proposes to install ancillary equipment, including three (3) temporary, guyed meteorological towers up to 309-feet in height, two (2) permanent, self-supported meteorological towers up to 309-feet in height, a temporary expansion of an existing laydown yard, construction of new temporary and permanent internal access roads, and a new electrical collection system integrating the proposed wind turbines to the electrical grid via one of two options. Option 1 would include the installation of new 12-kilovolt (kV) underground collector circuits from each wind turbine to an existing, on-site, SCE-owned 12 kV distribution system and 12 kV to 115 kV collector substation. Option 2 would include the installation of new 34.5 kV underground collector circuits from each wind turbine to a new Project-owned 34.5 kV to 115 kV collector substation that would connect to the electric grid on-site by way of a new, Project-owned 115 kV tie line. **Variance Case No. 180003** proposes reductions in WECS safety setbacks from 1.1 times total WECS height from lot lines abutting the Colorado River Aqueduct to between 325 feet and 515 feet, reduce WECS safety setbacks from 1.1 times total WECS height to 0 feet from all internal lot lines associated with W-E zoned land, reduce WECS safety setbacks from 1.25 time total WECS height to 555 feet from the northern boundary of the Southern California Edison transmission line easement located along the southern lot line of APN 516-030-014 and eliminate wind access setbacks along the northern, southern and eastern lot lines of the Project parcels.

TIME OF HEARING: 9:00 a.m. or as soon as possible thereafter.
DATE OF HEARING: **NOVEMBER 28, 2018**
PLACE OF HEARING: RIVERSIDE COUNTY ADMINISTRATIVE CENTER
BOARD CHAMBERS, 1ST FLOOR
4080 LEMON STREET, RIVERSIDE, CA 92501

For further information regarding this project please contact Project Planner, Jay Olivas at (760) 863-7050 or email at jolivas@rivco.org, or go to the County Planning Department's Planning Commission agenda web page at <http://planning.rivco.org/PublicHearings.aspx>.

The Riverside County Planning Department has determined that the above project will not have a significant effect on the environment and has recommended adoption of a mitigated negative declaration. The Planning Commission will consider the proposed project and the proposed mitigated negative declaration, at the public hearing. The case file for the proposed project and the proposed mitigated negative declaration may be viewed Monday through Friday, 8:30 a.m. to 5:00 p.m., at the County of Riverside Planning Department, 4080 Lemon Street 12th Floor, Riverside, CA 92501 or the Desert Office, 77588 El Duna Court Suite H, Palm Desert, CA 92211. For an appointment, contact the project planner.

Any person wishing to comment on a proposed project may do so, in writing, between the date of this notice and the public hearing or appear and be heard at the time and place noted above. All comments received prior to the public hearing will be submitted to the Planning Commission, and the Planning Commission will consider such comments, in addition to any oral testimony, before making a decision on the proposed project.

If you challenge this project in court, you may be limited to raising only those issues you or someone else raised at the public hearing, described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing. Be advised that, as a result of public hearings and comment, the Planning Commission may amend, in whole or in part, the proposed project. Accordingly, the designations, development standards, design or improvements, or any properties or lands, within the boundaries of the proposed project, may be changed in a way other than specifically proposed.

Please send all written correspondence to:
RIVERSIDE COUNTY PLANNING DEPARTMENT/Attn: Jay Olivas
77588 El Duna Court Suite H, Palm Desert, CA 92211

PROPERTY OWNERS CERTIFICATION FORM

I, VINNIE NGUYEN certify that on October 19, 2018,

The attached property owners list was prepared by Riverside County GIS,

APN (s) or case numbers WCS180001 / VAR180003 for

Company or Individual's Name RCIT - GIS,

Distance buffered 1/2 Mile

Pursuant to application requirements furnished by the Riverside County Planning Department. Said list is a complete and true compilation of the owners of the subject property and all other property owners within 600 feet of the property involved, or if that area yields less than 25 different owners, all property owners within a notification area expanded to yield a minimum of 25 different owners, to a maximum notification area of 2,400 feet from the project boundaries, based upon the latest equalized assessment rolls. If the project is a subdivision with identified off-site access/improvements, said list includes a complete and true compilation of the names and mailing addresses of the owners of all property that is adjacent to the proposed off-site improvement/alignment.

I further certify that the information filed is true and correct to the best of my knowledge. I understand that incorrect or incomplete information may be grounds for rejection or denial of the application.

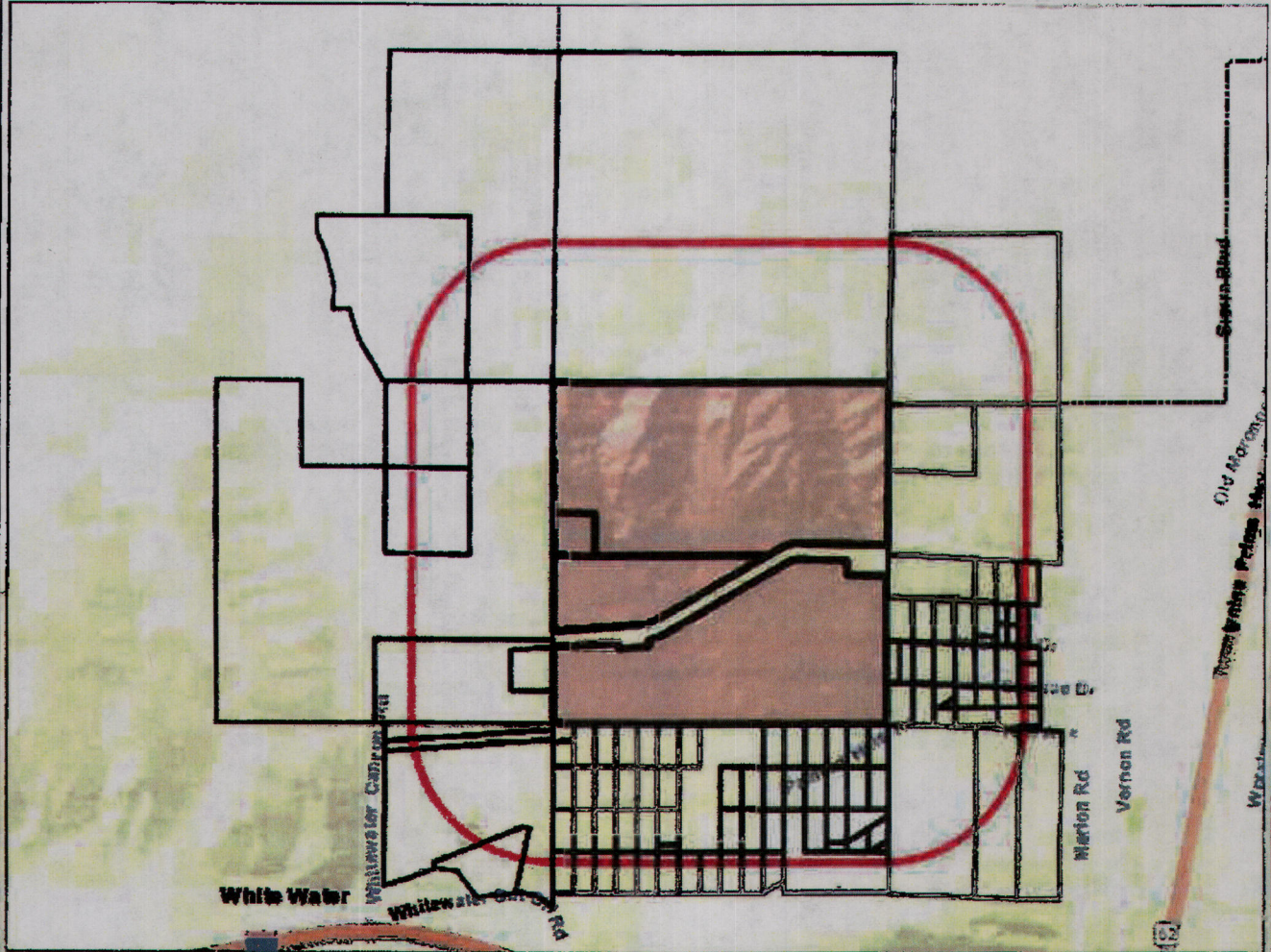
TITLE: GIS Analyst

ADDRESS: 4080 Lemon Street 9TH Floor

Riverside, Ca. 92502

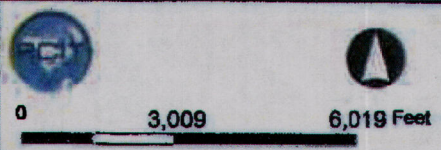
TELEPHONE NUMBER (8 a.m. - 5 p.m.): (951) 955-8158

Riverside County GIS Mailing Labels
WCS180001 / VAR180003 (1/2 Mile Buffer)



- Legend**
- County Boundary
 - Cities
 - World Street Map

Notes



IMPORTANT Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

REPORT PRINTED ON... 10/19/2018 10:32:13 AM

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514260011
USA 514
0
CA. 0

514260004
FRIENDS OF THE DESERT MOUNTAINS
P O BOX 1281
PALM DESERT CA 92261

668070016
KATHY ANN TESTER
C/O C/O JOHN P MORRIS
611 S PALM CANYON NO 170
PALM SPRINGS CA 92264

668070014
KATHY ANN TESTER
C/O C/O JOHN MORRIS
611 S PALM CANYON DR 170
PALM SPRINGS CA 92264

668070031
JOHN P MORRIS
611 S PALM CANYON DR 170
PALM SPRINGS CA 92264

668070028
SOUTHERN CALIFORNIA EDISON CO
C/O C/O C S REENDERS ASST COMPTROLLER
P O BOX 800
ROSEMEAD CA 91770

668070019
JOSE ALFREDO SANCHEZ
ANA SANCHEZ
P O BOX 2291
PALM DESERT CA 92261

668070020
A HORIZON VENTURES INC
P O BOX 1278
PALM SPRINGS CA 92263

668070024
MARIO S MARTINEZ
MONICA C MARTINEZ
47532 BISON CIR
INDIO CA 92201

668070018
WILSON ROBERT B ESTATE OF
C/O C/O JAYNE W SOUZA
355 ELLAMAR RD
WEST PALM BEACH FL 33405

668070027
SOUTHERN CALIFORNIA EDISON CO
C/O C/O C S REENDERS ASST COMPTROLLER
P O BOX 800
ROSEMEAD CA 91770

668070017
ROSA ACOSTA
P O BOX 580058
N PALM SPRINGS CA 92258

668070015
SOUTHERN CALIF EDISON CO
P O BOX 800
ROSEMEAD CA 91770

668150005
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

518090016
JASON KEITH ETCHASON
SEAN D ETCHASON
KATHLEEN ANN GUZINSKI

315 CORREAS ST
HALF MOON BAY CA 94019

518120063
USA 516
C/O NONE
0
CA. 0

518120038
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

518120028
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

518120027
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

518120028
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

518030010
METROPOLITAN WATER DIST OF SO CALIF
P O BOX 54153
LOS ANGELES CA 90054

518120028
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

518120032
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

518120039
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

518120036
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

518120007
COACHELLA VALLEY CONSERVATION
73710 FRED WARING STE 200
PALM DESERT CA 92280

518120012
ROBIN SUE FLITT
NORMAN FLITT
C/O C/O NORMAN FLITT
2 RED ROOF DR
RYE BROOK NY 10573

518120033
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120009
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120016
JOHN E KAVANAUGH
9085 LAS TUNAS
TEMPLE CITY CA 91780

516120013
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516030014
JASON KEITH ETCHASON
KATHLEEN ANN GUZINSKI
JAMES D ETCHASON

315 CORREAS ST
HALF MOON BAY CA 94019

516120006
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120011
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120041
ESPERANZA SANCHEZ
4621 RICHELIEU PL
LOS ANGELES CA 90032

516120003
JOHN A MEYERS
MARGARET A MEYERS
PAMELA D MEYERS

343 N ALFRED ST
LOS ANGELES CA 90048

516030004
JASON KEITH ETCHASON
SEAN D ETCHASON
KATHLEEN ANN GUZINSKI

516100008
MWD
C/O C/O ASSEST MANAGEMENT
P O BOX 54153
LOS ANGELES CA 90054

315 CORREAS ST
HALF MOON BAY CA 94019

516120002
BESSIE CHEN TSE
RICHARD T P CHOU
KENNETH K Y TSE
C/O KENNETH K Y TSE
370 28TH AVE
SAN FRANCISCO CA 94121

516120062
USA 516
C/O NONE
0
CA. 0

516120031
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120034
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120005
JOHN A MEYERS
MARGARET A MEYERS
PAMELA D MEYERS

343 N ALFRED ST
LOS ANGELES CA 90048

516120068
SOUTHERN CALIFORNIA EDISON CO
C/O C S REENDERS ASST COMPTROLLER
P O BOX 800
ROSEMEAD CA 91770

516120017
DENISE A DANNE
351 GUERRERO ST
SAN FRANCISCO CA 94103

516110015
STATE OF CALIF
C/O STATE OF CALIF
P O BOX 1799
SACRAMENTO CA 95808

516120057
SUSANNA WOZNICA
12818 ERWIN ST
NORTH HOLLYWOOD CA 91808

516120051
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120055
COACHELLA VALLEY CONS COMMISSION
73710 FRED WARING STE 112
PALM DESERT CA 92280

516030002
FRIENDS OF THE DESERT MOUNTAINS
P O BOX 1281
PALM DESERT CA 92281

516120024
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120022
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120042
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120061
USA 516
C/O NONE
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CA. 0

516120020
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120065
SOUTHERN CALIFORNIA EDISON CO
C/O C S REENDERS ASST COMPTROLLER
P O BOX 800
ROSEMEAD CA 91770

516120018
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120019
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120047
COACHELLA VALLEY CONSERVATION
73710 FRED WARING STE 205
PALM DESERT CA 92260

516120025
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120052
IRENE LOHAYZA
1808 W 280TH ST
LOMITA CA 90717

516120048
EARL CAMPUS
GILBERT R CAMPOS
PATRICIA A CAMPOS

1421 CANYON PINE RD
BEAUMONT CA 92223

516030008
JASON KEITH ETCHASON
KATHLEEN ANN GUZINSKI
JAMES D ETCHASON

516030013
MWD
C/O C/O GUY WALTERS
700 N ALAMEDA ST NO 3
LOS ANGELES CA 90012

315 CORREAS ST
HALF MOON BAY CA 94019

516120060
USA 516
C/O NONE
0
CA. 0

516100007
MWD
C/O C/O ASSEST MANAGEMENT
P O BOX 54153
LOS ANGELES CA 90054

516120030
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516030001
DESERT WATER AGENCY
C/O C/O DAVID LUKER
P O BOX 1710
PALM SPRINGS CA 92263

516120004
JOHN A MEYERS
MARGARET A MEYERS
PAMELA D MEYERS

516120059
USA 516
C/O NONE
0
CA. 0

343 N ALFRED ST
LOS ANGELES CA 90048

516100006
MWD
C/O C/O ASSEST MANAGEMENT
P O BOX 54153
LOS ANGELES CA 90054

516120008
MARY ANN STUMBERS
612 S KEYSTONE AVE
CLEARWATER FL 33756

516120037
WIND ENERGY PARTNERSHIP
707 ESPLANE NO C
REDONDO BEACH CA 90277

516120015
WIND ENERGY PARTNERSHIP
707 ESPLANE NO C
REDONDO BEACH CA 90277

516120064
USA 516
C/O NONE
0
CA. 0

516120035
WIND ENERGY PARTNERSHIP
707 ESPLANE NO C
REDONDO BEACH CA 90277

516120014
WIND ENERGY PARTNERSHIP
707 ESPLANE NO C
REDONDO BEACH CA 90277

516120058
SOUTHERN CALIFORNIA EDISON CO
C/O C S REENDERS ASST COMPTROLLER
P O BOX 800
ROSEMEAD CA 91770

516120023
WIND ENERGY PARTNERSHIP
707 ESPLANE NO C
REDONDO BEACH CA 90277

516120010
WIND ENERGY PARTNERSHIP
707 ESPLANE NO C
REDONDO BEACH CA 90277

516120021
WIND ENERGY PARTNERSHIP
707 ESPLANE NO C
REDONDO BEACH CA 90277

516120040
WIND ENERGY PARTNERSHIP
707 ESPLANE NO C
REDONDO BEACH CA 90277

516120067
SOUTHERN CALIFORNIA EDISON CO
C/O C S REENDERS ASST COMPTROLLER
P O BOX 800
ROSEMEAD CA 91770

668020001
EVA H EVANS
JORJA L JONES
FREDDA K EVANS

901 MONTANA AVE NO B
SANTA MONICA CA 90403

668020002
USA 668
C/O NONE
US DEPT OF INTERIOR
WASHINGTON DC 21401

668050001
SHIH CHING HUANG
916 E NAVILLA PLACE
COVINA CA 91724

668050006
CATHY ROMERO
YOLANDA MARIE RUSTAD
MARION B DEMETT
C/O MARION B DEMETT
66025 AVENIDA LADERA
DSRT HOT SPG CA 92240

668050009
BLAIR FICKETT
P O BOX 404
FAWNSKIN CA 92333

668050002
CLARENCE JACOBUS
2308 W LOVE LN
CRETE IL 60417

668070001
PHWD AFFILIATE
C/O STE 215
100 FOUR FALLS CORP CTR
WEST CONSHOHOCKEN PA 19428

668050008
RICARDO LEON
15303 STAR LN
WHITEWATER CA. 92282

668050012
ANGEL RAYA
LUCERO RAYA
PO BOX 820
CABAZON CA 92230

668070025
RUI ZHEN GAO
15595 PAINTED HILLS RD
WHITEWATER CA 92282

668050016
USA 668
C/O NONE
US DEPT OF INTERIOR
WASHINGTON DC 21401

668070002
BUDDY T MCPHAIL
RITCHIE L MCPHAIL
P O BOX 580933
NORTH PALM SPRINGS CA 92258

668050003
TIMOTHY DAVID PORTER
P O BOX 444
CABAZON CA 92230

668050005
ABDON FIGUEROA
NORMA A FIGUEROA
3425 N INDIAN NO 2
PALM SPRINGS CA 92262

668070029
TROY TROUT
XANDI SHAW
PO BOX 580961
NORTH PALM SPRINGS CA 92258

668070004
JOEL S AGRON
SCOTT A PROUTY
15515 OCOTILLO RD
WHITEWATER CA. 92282

668070005
JOHN MORRIS
811 S PALM CANYON NO 170
PALM SPRINGS CA 92284

667160001
EUI AFFILIATE
C/O STE 215
100 FOUR FALLS CORP CTR
WEST CONSHOHOCKEN PA 19428

668050007
BARRY L STAUFFACHER
DEBRAL STAUFFACHER
60300 WESTSIDE DR
WHITEWATER CA. 92282

668070032
ROSEMARIE ANNE CHESEBROUGH
P O BOX 5784
LA QUINTA CA 92248

668050010
BLAIR FICKETT
P O BOX 404
FAWN SKIN CA 92333

668070006
JOSE RAMON DIAZ
IDA OTERO DIAZ
15729 PAINTED HILLS RD
WHITEWATER CA. 92282

668070011
PHWD AFFILIATE
C/O STE 215
100 FOUR FALLS CORP CTR
WEST CONSHOHOCKEN PA 19428

514280012
USA 514
C/O C/O AL BANKUS
58845 OLD HIGHWAY 80
WHITE WATER CA 92282

668150004
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

516120068
SOUTHERN CALIF EDISON CO
P O BOX 800
ROSEMEAD CA 91770

516030017
MWD
C/O C/O GUY WALTERS
700 N ALAMEDA ST NO 3
LOS ANGELES CA 90012

668070012
VICTOR MICHEL
P O BOX 918
CABAZON CA 92230

516030016
USA 516
C/O NONE
0
CA. 0

668050017
CHARLOTTE LOVE
CHARLES A AMENDOLA
SUSAN CAMILLE AMENDOLA

60350 WESTSIDE DR
WHITEWATER CA 92282

668050020
CHARLOTTE LOVE
CHARLES A AMENDOLA
SUSAN CAMILLE AMENDOLA

60350 WESTSIDE DR
WHITEWATER CA 92282

668070013
BUDDY TRAVIS MCPHAIL
RITCHIE LEE MCPHAIL
P O BOX 680933
NORTH PALM SPRINGS CA 92258

668150006
WIND ENERGY PARTNERSHIP
707 ESPLANADE NO C
REDONDO BEACH CA 90277

Richard Drury
Theresa Rettinghouse
Lozeau Drury, LLC.
410 12th Street Suite 250
Oakland, CA 94607

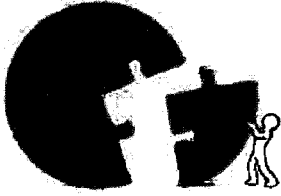
668050018
CHARLOTTE LOVE
CHARLES A AMENDOLA
SUSAN CAMILLE AMENDOLA

60350 WESTSIDE DR
WHITEWATER CA 92282

668070030
SOUTHERN CALIF EDISON CO
P O BOX 800
ROSEMEAD CA 91770

668050019
CHARLOTTE LOVE
CHARLES A AMENDOLA
SUSAN CAMILLE AMENDOLA

60350 WESTSIDE DR
WHITEWATER CA 92282



RIVERSIDE COUNTY PLANNING DEPARTMENT

Charissa Leach, P.E.
Assistant TLMA Director

TO: Office of Planning and Research (OPR)
P.O. Box 3044
Sacramento, CA 95812-3044
 County of Riverside County Clerk

FROM: Riverside County Planning Department
 4060 Lemon Street, 12th Floor
P. O. Box 1409
Riverside, CA 92502-1409

77588 El Duna Ct Ste. H
Palm Desert, California 92211

SUBJECT: Filing of Notice of Determination in compliance with Section 21152 of the California Public Resources Code.

WCS180001 / VAR180003 / CEQ180059

Project Title/Case Numbers

Jay Olivas, Project Planner
County Contact Person

(760) 863-8271
Phone Number

N/A

State Clearinghouse Number (if submitted to the State Clearinghouse)

Painted Hills Wind, LLC
Project Applicant

11455 El Camino Real, San Diego, CA 92130
Address

North of Interstate 10, west of Highway 62 and Windhaven Road at terminus of Painted Hills Road

Project Location

Commercial WECS Permit No. 180001 decommissions and removes approximately 291 existing commercial wind turbines (WECS) and install up to 14 new commercial wind turbines up to 400-foot in height with a per turbine generating capacity of between 2.0 megawatts (MW) and 4.2 MW on land within the Wind Energy Resource (W-E) Zone. Variance Case No. 180003 reduces WECS setbacks.

Project Description

This is to advise that the Riverside County Planning Commission, as the lead agency, has approved the above-referenced project on November 28, 2018, and has made the following determinations regarding that project:

1. The project WILL NOT have a significant effect on the environment.
2. Mitigation measures WERE made a condition of the approval of the project.
4. A Mitigation Monitoring and Reporting Plan/Program WAS NOT adopted.
5. A statement of Overriding Considerations WAS NOT adopted.
6. Findings were made pursuant to the provisions of CEQA.

This is to certify that the Initial Study, with comments, responses, and record of project approval is available to the general public at: Riverside County Planning Department, 77588 El Duna Ct, Palm Desert, CA 92211.

	Project Planner	
<small>Signature</small>	<small>Title</small>	<small>Date</small>

Date Received for Filing and Posting at OPR: _____

Revised: 06/01/2018
Y:\Planning Case Files-Riverside office\WCS180001\PC Documents\WCS NOD.docx

Please charge deposit fee cases: ZCEQ180059 ZCFW180050

FOR COUNTY CLERK'S USE ONLY



RIVERSIDE COUNTY PLANNING DEPARTMENT

Charissa Leach, P.E.
Assistant TLMA Director

MITIGATED NEGATIVE DECLARATION

Project/Case Number: COMMERCIAL WECS PERMIT NO. 180001; VARIANCE CASE NO. 180003

Based on the Initial Study, it has been determined that the proposed project, subject to the proposed mitigation measures, will not have a significant effect upon the environment.

PROJECT DESCRIPTION, LOCATION, AND MITIGATION MEASURES REQUIRED TO AVOID POTENTIALLY SIGNIFICANT EFFECTS. (see Environmental Assessment/Initial Study and Conditions of Approval)

COMPLETED/REVIEWED BY:

By: Jay Olivas Title: Project Planner Date: October 19, 2018

Applicant/Project Sponsor: Painted Hills Wind, LLC Date Submitted: June 18, 2018

ADOPTED BY: Planning Commission

Person Verifying Adoption: _____ Date: _____

The Mitigated Negative Declaration may be examined, along with documents referenced in the initial study, if any, at:

Riverside County Planning Department 4080 Lemon Street, 12th Floor, Riverside, CA 92501

For additional information, please contact Jay Olivas, Project Planner at 760-863-8271.

Revised: 08/01/18
Y:\Planning Case Files-Riverside office\WCS180001\PC Documents\WCS MND.docx

Please charge deposit fee case#: ZCEQ180059 ZCFW180050

FOR COUNTY CLERK'S USE ONLY

INVOICE (INV-00059742)
FOR RIVERSIDE COUNTY

BILLING CONTACT

Painted Hills Wind, LLC
11512 El Camino Real, 100
San Diego, Ca 92130

**County of Riverside
Trans. & Land Management Agency**



INVOICE NUMBER	INVOICE DATE	INVOICE DUE DATE	INVOICE STATUS
INV-00059742	10/22/2018	10/22/2018	Paid in Full

REFERENCE NUMBER	FEE NAME	TOTAL
CFW180050	0451 - CF&W Trust ND/MND	\$2,280.75
0 Unassigned White Water, CA 92282		SUB TOTAL \$2,280.75

TOTAL **\$2,280.75**

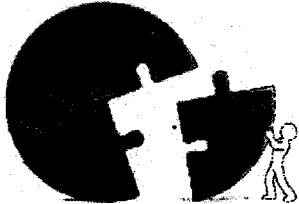
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For Questions Please Visit Us at the Following Locations:

Riverside Permit Assistance Center
4080 Lemon St., 9th FL
Riverside, CA 92501

Desert Permit Assistance Center
77588 El Duna Ct., Ste H
Palm Desert, CA 92211



Charissa Leach, P.E.
Assistant TLMA Director

RIVERSIDE COUNTY PLANNING DEPARTMENT

Memorandum

DATE: November 28, 2018
TO: Planning Commission
FROM: Jay Olivas, Project Planner
RE: Item 4.1 -- WCS180001/VAR180003 -- Painted Hills WECS

Planning Commission:

Please note the following modifications to the staff report:

1. Staff Report Text Changes--attached.
2. Amended Conditions of Approval--attached.
3. CURE Letters dated November 26, 2018 and November 27, 2018—provided separately.
4. Painted Hills – Response to CURE Letter—provided separately.

Y:\Planning Case Files-Riverside office\WCS180001\PC Documents\PC Memo 11-28-18.docx

Riverside Office • 4080 Lemon Street, 12th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 • Fax (951) 955-1811

Desert Office • 77588 El Duna Court
Palm Desert, California 92211
(760) 863-8277 • Fax (760) 863-7555

"Planning Our Future... Preserving Our Past"

The north half of Section 1 was permitted under WCS 25 for 39 turbines and WCS53 for 36 turbines. WECS 25 Rev Permit #2, Variance 01707, EA 38139 added 5 additional WTGs to this area and combined the old WCS 25 and WCS 53 into one revised WECS 25 permit.

ENVIRONMENTAL REVIEW AND FINDINGS

An Initial Study (IS), CEQ180059, and Mitigated Negative Declaration (MND) were prepared for this project in accordance with the California Environmental Quality Act (CEQA). The IS represents the independent judgment of Riverside County and determines that the proposed project could not have a significant effect on the environment. A Notice of Intent to Adopt a Mitigated Negative Declaration was prepared, and the Mitigated Negative Declaration was made available for public review per the CEQA Statute and Guidelines Section 15105 for at least 30 days. The project as proposed and conditioned will not result in any potentially significant environmental impacts, with mitigation incorporated.

The Project's Initial Study was circulated with the State Clearinghouse for a 30-day review period between October 25, 2018 and November 26, 2018 in advance of the public hearing scheduled for November 28, 2018. As of this writing (11/7/18), one public agency comment letter dated October 8, 2018 was received from the Metropolitan Water District (MWD) of Southern California in regards to the existing lease license agreement for access across the Colorado River Aqueduct and proposed wind turbine setbacks, and is attached to this report for reference purposes.

The MWD letter of October 8, 2018 stated that all structures including wind turbines must be setback a minimum of 500-feet from Metropolitan's existing aqueduct right-of-way. Based on telephone conference call with the Metropolitan Water District on November 14, 2018, and submitted information from the developer including plan detail near the aqueduct with wind rose data (Exhibit S), it was determined that proposed wind turbines T5, T6, T9, T10 complied with 500-setback from the existing aqueduct. It was also found that proposed wind turbine T1 setback of 462 would be acceptable due to the following:

- This wind rose data as illustrated by Exhibit S was developed using on site, historical wind data. It shows that historically, the dominant wind direction by far is from the west. The wind rarely blows from the other directions. And, when it does it rarely blows at high speeds.
- In the exceedingly rare event that a turbine would actually fall, it would most likely fall at the time the wind is blowing at high speeds from the dominant direction. In other words, the turbines south of the aqueduct would fall eastward and away from the aqueduct. The turbines north of the aqueduct would fall eastward and parallel to the aqueduct.
- On the very rare occasion that a turbine does topple, it rarely falls down like a tree. It generally buckles at a point along the tower and thus impacts the ground at a distance less than the overall turbine height.
- All but Turbine T-1 are located more than 500 feet away from the pipeline.
- Turbine T-1 is located 462 feet away from the pipeline. At this particular location, turbine would be less than 462 feet in height.
- Variance setbacks ranging between 325 feet and 515 feet from the aqueduct property line to provide some micro-siting flexibility for the turbine locations shown on the map.
 - For example, the 325 foot variance is associated with the closest turbine, T-1, which is actually sited 350 feet away from the property line, providing 25 feet of micro-siting flexibility.
 - For example, the 515 foot variance is associated with the furthest turbine, T-10, which is actually sited 537 feet away from the property line, providing 22 feet of micro-siting flexibility.

13. The project consists of an existing WECS arrays to be decommissioned and replaced with up to 14 new wind turbines and associated facilities such as pad mounted transformers and underground distribution lines.
14. The existing WECS arrays ~~are~~ is surrounded by other WECS arrays and vacant land to the south, west, north and northeast, scattered single family residential to the east and southeast across Windhaven Road and Painted Hills Road, all which are common land uses in the area.
15. Utilization of wind energy resources of Riverside County are a recognized and acceptable land use within Riverside County since 1982 when the initial general plan and zoning regulations for wind energy were adopted by the Board of Supervisors by Resolution No. 82-326.
16. The proposed project is consistent with the Development Standards and Development Criteria as provided in Section 18.41(D.), respectively, of Ordinance No. 348 in that:
 - I. Safety and security measures, such as fencing to prevent unauthorized access, are in place via the existing perimeter chain link fence. Meteorological tower guy wires will be distinctly marked ~~with the meteorological towers~~ and warning signs will be ~~are in place~~ in English and Spanish at the base of each existing and proposed WECS tower and perimeter fence warning of electrical and other hazards (Conditions of Approvals 90.Planning. - Perimeter Fence and AND.Planning. - Warning Signs).
 - II. Seismic Safety measures for the tower, foundation will be in compliance with the California Building Code per prior building permit issuance for the 14 proposed wind turbines.
 - III. Fire Protection measures will be in place ~~are in place~~, the project will be ~~is~~ required to comply with fire prevention maintenance measure such as fire breaks, fire extinguishers on service vehicles, and equipment enclosures being equipped with automatic fire extinguishing systems, as outlined in AND FIRE.1.
 - IV. Electrical Distribution facilities will be in place ~~are in place~~ connecting the project to the ~~existing Substation on the southeastern portion of the site with 12.5 kV underground cable where it is delivered to the~~ Southern California Edison electrical grid ~~Company~~ in conformance with California Building Codes and existing utility interconnection agreement.
 - V. Interference with navigational systems is addressed in that no navigational clutter exists with current and modernized radar systems in the San Gorgonio Pass area. Additionally, the Project is required to comply with FAA requirements as outlined in AND Planning.
 - VI. The proposed wind turbines including foundation, tower, rotor system, electrical system, and rotor over speed will be certified and in conformance with good engineering practices per prior building permit issuance and compliance with conditions of approval such as requirements to certify structures and certify mechanical equipment.
 - VII. Noise standards are complied with in that the acoustical analysis demonstrated no noise decibel levels dB(A) exceeding 55 dB(A) to the nearest residential dwellings would occur as indicated by AND PLANNING.18. Additionally, the proposed commercial WECS shall not be operated so an impulsive sound below 20 Hz adversely affects the habitability or use of any sensitive receptor such as a habitable dwelling.

- VIII. New electrical distribution lines will be undergrounded up to the point they tie in to the existing, on-site, SCE-owned 12 kV distribution system, if Option 1 is selected, or up to the low voltage side of the transformer, if Option 2 is selected. Electrical distribution lines are undergrounded up to the low voltage side of the transformer.
- IX. Height limits are complied with in that new proposed turbines will be are up to 499-feet in height and do not exceed 500 feet in height.
- X. Color and finish of ~~existing and~~ proposed WECS will be light grey with matte finish. The proposed project has also provided a Visual Resource Study to further address visual impacts.
- XI. Off-Street Vehicle Parking is will be provided along existing graveled service roads immediately adjacent to the ~~existing~~ wind turbine rows and proposed turbine rows with 1 parking space per 2 employees in compliance with Section 18.41 of Zoning Ordinance No. 348. Due to 600-acre site with 14 proposed ~~294 existing~~ wind turbines, only 2 or 3 employees are expected to maintain ~~normally maintaining~~ the site at any given time limiting the need for parking spaces.
17. The project is located within the Coachella Valley Multiple Species Habitat Conservation Plan, and is located within the Upper Mission Creek/Big Morongo Canyon Conservation Area. New construction is proposed with 14 new turbines and service roads on north portion of the project and includes new total permanent disturbed acreage of up to 36.33 acres and temporary disturbed acreage of 3.74 acres or less. The Project went through Joint Project Review (JPR) with the wildlife agencies. To address biological impacts the proposed Project was analyzed in the Initial Study based on supporting studies and analysis, and impacts were found less than significant with mitigation measures incorporated. The Project has been conditioned for streambed permits, nesting bird surveys and Restoration Plan to cover the restoration of the Coachella Valley Jerusalem cricket habitat on the site as outlined in Conditions of Approval (COAs) 60.Planning-EPD.
18. The project for new WECS shall be required to pay CV-MSHCP fees in accordance with Ordinance No. 875 in order to be consistent with the plan and is a standard requirement.
19. Archaeological resources were not located on this subject land based on completed field surveys and records review. Additionally, notification letters regarding AB 52 were mailed to various local tribes on August 30, 2018. Letters were received from Soboba Band of Luisano Indians and Agua Caliente Band of Cahuilla Indians requesting further consultation. Consultation was subsequently concluded and resolved based on further communications with the tribal representatives and County Archaeologist with recommended project conditions such as AND Planning-CUL.2-PDA06072R2 Accepted, Planning-CUL. 3-Unanticipated Resources, and CQA 60.Planning-CUL.1 Native American Monitor Required.
20. The permit holder shall remain in compliance with the attached Airport Land Use Commission (ALUC) letter dated October 11, 2018, summarized as follows: 1) WECS shall not generate electrical interference; 2) WECS rotor blades shall utilize flat or matte non glossy finish; 3) WECS shall not generate smoke or water vapor; 4) combined height of each WECS and foundation will be less than 500 feet above ground level; 5) any new structures taller than 200-feet not part of this WECS permit will require review by ALUC and FAA as outlined in AND PLANNING.4ALUC Letter.

21. The project will not be detrimental to the health, safety or general welfare of the community since the project is conditioned to comply with codes and ordinances, such as the California Building Code, local fire prevention and transportation ordinances.
22. The project site is or will be adequately served by public roads and other public or private service facilities such as Painted Hills Road and Windhaven Road with 24-foot width paving improvement of Windhaven Road.

PUBLIC HEARING NOTIFICATION AND OUTREACH

The project applicant participated in a public outreach presentation at the West Desert Municipal Advisory Council's monthly meeting on September 11, 2018 held at the Cabazon Community Center. Approximately 30 people attended the meeting, and the project was well received.

Public hearing notices were mailed to property owners within ½ mile of the proposed project site. The Notice of Hearing was also published in the Desert Sun and Press Enterprise on October 28, 2018. Additionally, local and regional agencies such as the Metropolitan Water District, Southern California Edison, and the Bureau of Land Management were notified by email communication letter on October 2, 2018. As of the writing of this report (11/7/18), Planning Staff has received two (2) communications from the general public with general information questions addressed via telephone.

The project is located within the Sphere of Influence (SOI) of the City of Desert Hot Springs. Project information was forwarded to the City of Desert Hot Springs on October 2, 2018, and no comments have been received as of this writing.

APPEAL INFORMATION

The Planning Commission's decision may be appealed to the Board of Supervisors. Such appeals shall be submitted to the Clerk of the Board within ten days after the notice of decision appears on the Board's agenda, accompanied by the fee set forth in Ordinance No. 671

015 - Planning
UNKNOWN Gen - Life of Permit Status
Unsatisfied

The life of Commercial WECS Permit No. 180001 shall terminate on December 1, 2048, or 30 years after the Building and Safety Department finalizes the permit, whichever is greater, and the permit shall thereafter be null and void and of no effect whatsoever. This commercial WECS permit is subject to Section 18.31 of Ordinance No. 348 (Permit Revocation).

015 - Planning
UNKNOWN Gen - LIGHTING HOODED & DIRECTED Status
Unsatisfied

Any outside lighting shall be hooded and directed so as not to shine directly upon adjoining property and public right-of-way.

015 - Planning
UNKNOWN Gen - MAXIMUM WECS Status
Unsatisfied

A maximum total of 14 WECS and towers with related infrastructure with per turbine capacity of between 2.0 megawatts (MW) and 4.2 MW each, shall be allowed under this commercial WECS permit.

015 - Planning
UNKNOWN Gen - Mitigation Measures Status
Unsatisfied

Mitigation Measures from Environmental Assessment (EA) No. 180059 have been incorporated as conditions of approval of this project where appropriate. Beyond these conditions of approval that have been incorporated, development of the project shall conform to the analysis, conclusions, and mitigation measures of EA No. 180059 MM-BIO-1: Nesting Birds. In conformance with the requirements of the MBTA Act and California Fish and Game Code, should vegetation clearing, cutting, or removal activities be required during the nesting season (i.e., January 15 through August 31), an Acceptable Biologist shall conduct a nesting bird survey within 72 hours of such activities. The survey shall consist of full coverage of the Project footprint and an appropriate buffer, as determined by the Biologist. If no occupied nests are found, no additional steps shall be required. If nests are found that are being used for breeding or rearing young by a native bird, the Biologist shall recommend further avoidance measures, including establishing an appropriate buffer around the occupied nest. The buffer shall be determined by the Biologist based on the species present, surrounding habitat, and existing environmental setting/level of disturbance. No construction or ground-disturbing activities shall be conducted within the buffer until the Biologist has determined that the nest is no longer being used for breeding or rearing. MM-GEO-1: Site design and engineering shall be conducted in conformance with all recommendations as specified in the Geotechnical/Geologic Feasibility Study, Geologic Report No. 180021 (Appendix E.1 and E.2.1 and E.2), as well as those applicable recommendation specified in any subsequently prepared geotechnical/soils reports for the Project. MM-PAL-1: A Paleontological Resources Impact Mitigation Program (PRIMP) shall be prepared and implemented to reduce any potential impacts to significant paleontological resources. The PRIMP shall outline where monitoring is required within the Project site based on construction plans and/or geotechnical reports, procedures for adequate paleontological monitoring and discoveries treatment, and paleontological methods (including sediment sampling for microvertebrate fossils), reporting, and collections management. MM-TRA-1:

Commented [RS1]: See 060-Planning EPD comment below. Duplicative and inconsistent. Propose keeping this and deleting 060-Planning EPD condition.

Prior to finalization of plans and specifications, a construction management plan (CMP) should be prepared by the County and/or their construction contractor for any construction activities that encroach into the public right-of-way. The CMP shall include measures designed to reduce the impact of temporary construction traffic and any necessary lane or street closure. Such measures may include but are not limited to providing early notification of closures to the County Fire Department and Sheriff's Departments, residents, and nearby businesses; the use of signage before and during construction activities that clearly delineates detour routes around the lane and street closures; and flaggers to direct traffic in the vicinity of the closure.

015 - Planning
UNKNOWN Gen - MONITORING REPORTS Status
Unsatisfied

The permittee may be required to submit periodic monitoring reports containing data on the operations and environmental impacts of this commercial WECS permit, including, but not limited to, noise, WECS failures, power production and sightings of threatened or endangered species. Upon written notice from the County of Riverside, requiring such a report, the permittee shall prepare and submit the required report within sixty (60) calendar days.

015 - Planning
UNKNOWN Gen - Mt. Palomar Lighting Area Status
Unsatisfied

Within the Mt. Palomar Lighting Area, as defined in Ordinance No. 655, low pressure sodium vapor lighting or overhead lighting with shields or cutoff luminaires, shall be utilized. ~~Notwithstanding~~
~~the above, the use of such lighting shall be limited according to the requirements of FAA Advisory Circular~~
~~7000.17.~~

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015 - Planning
UNKNOWN Gen - No Connect w/o Final Status
Unsatisfied

No individual WECS shall be interconnected in any manner to the electrical facilities of the Southern California Edison Company, including, but not limited to, by means of an on-site substation, on-site electrical collection line or through the electrical equipment of any other commercial WECS permit, PRIOR TO FINAL INSPECTION APPROVAL by the Land Use Division of the Department of Building and Safety for the entire WECS array approved under this commercial WECS permit, or any phase thereof, as shown on an approved phasing plan. The permit holder may apply for a Temporary Power Permit from the Land Use Division prior to final inspection approval of the entire WECS array, or phase thereof, and the Land Use Division may issue such a permit in order to allow testing of WECS during limited periods of time for noise standard monitoring, uniform building code compliance and for other reasons, as approved by the Land Use Division. The Director of the Department of Building and Safety, or his designee, may allow the interconnection of individual WECS, notwithstanding the above, if the Director determines that adequate safe guards exist to ensure compliance with all conditions of approval of this permit, or as approved by the Planning Director.

015 - Planning
UNKNOWN Gen - No Outdoor Advertising Status
Unsatisfied

015 - Planning
UNKNOWN Gen - Warning Signs Status
Unsatisfied

Warning of WECS electrical and other hazards, shall be maintained/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.

015 - Planning
UNKNOWN Gen - WECS TOWER SPECS Status
Unsatisfied

The WECS and tower specifications approved under this commercial WECS permit include the following:
a. WECS Manufacturer No specific manufacturer required b. Total Height (WECS blade tip at 12:00 position): Up to 499-feet; c. Rotor Diameter: Up to 427-feet; d. Rotor Orientation: Upwind e. Number of Blades: Three (3) f. WECS Tower Design: Solid tubular g. Blade Design: Variable pitch, if stall regulated; no furling; tapered and twisted blades; airfoils designed to stall softly. Any change or alteration in the above WECS and tower specifications will require approval of the Planning Department, pursuant to the appropriate procedures of Ordinance No. 348, or through procedures as may be hereafter amended, prior to issuance of any building permits.

015 - Planning-CUL
UNKNOWN If Human Remains Found Status
Unsatisfied

If human remains are found on this site, the developer/permit holder or any successor in interest shall comply with State Health and Safety Code Section 7050.5.

015 - Planning-CUL
UNKNOWN PDA06072r2 accepted Status
Unsatisfied

County Archaeological Report (PDA) No. 6072r1 submitted for this project (WCS180001) was prepared by Dudek and is entitled Cultural Resource Assessment Painted Hills Wind Energy Repowering Project (WECS Permit No. WCS18001, Unincorporated Riverside County California, dated June 2018. This report was not accepted by the County Archaeologist and report comments (request for revisions) were requested and sent to the consultant. Revised County Archaeological Report (PDA) No. 6072r2 submitted for this same project, prepared by the same aforementioned company and individual and bearing the same title, is dated July 2018. This report was accepted by the County Archaeologist on August 27, 2018. PDA06072r2 concludes: The records search of the Project site identified four archaeological isolates and one built environment resource. The isolates, P-33-022322, P-33-022325, P-33-022326, and P-33-022327, consist of historic-era food and beverage cans located within the Project site but not adjacent to proposed Project activities. Because isolates possess limited research potential, they are not eligible for listing in either the NRHP or the CRHR. As such, no further resource management is required for these isolates. The built environment resource, the NRHP-recommended Colorado River Aqueduct (P-33-011265; CA-RIV-6726H), bisects the Project site from east to west. This portion of the resources consists of a subsurface water pipe. The path of this linear resource specifically underlies the proposed access road and underground collection line. Consistent with general construction practices related to the avoidance of existing subsurface utilities, construction of the project would ensure that excavations for the installation of the proposed subsurface collection line are shallower than this segment of the Colorado River Aqueduct. This will avoid impacts to the resource

Commented [RS2]: Isn't this satisfied?

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Assessment for CEQA purposes. PDP01601 is hereby accepted for WCS180001. A PRIMP shall be required prior to issuance of a grading permit for this project.

015 - Transportation	ENCROACHMENT PERMIT	Status
UNKNOWN		Unsatisfied

An encroachment permit must be obtained from the Transportation Department prior to the commencement of any work within the County road right-of-way.

015 - Transportation	STD INTRO 2 (ORD 460/461)	Status
UNKNOWN		Unsatisfied

With respect to the conditions of approval for the referenced tentative exhibit, the Transportation Department recommends that the [REDACTED] provide all street improvements, street improvement plans and/or road dedications set forth herein in accordance with Ordinance 460 and Riverside County Road Improvement Standards (Ordinance 461). It is understood that the exhibit correctly shows acceptable centerline elevations, all existing easements, traveled ways, and drainage courses with appropriate Q's, and that their omission or unacceptability may require the exhibit to be resubmitted for further consideration. These Ordinances and all conditions of approval are essential parts and a requirement occurring in ONE is as binding as though occurring in all. All questions regarding the true meaning of the conditions shall be referred to the Transportation Department.

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060 - BS-Grade	EASEMENTS/PERMISSION	Status
Prior To Grading Permit Issuance		Unsatisfied

Prior to the issuance of a grading permit, it shall be the sole responsibility of the owner/applicant to obtain any and all proposed or required easements and/or permissions necessary to perform the grading herein proposed. A notarized letter of permission and/or recorded easement or license from the affected property owners or easement or license holders shall be provided in instances where off site grading is proposed as part of the grading plan. In instances where the grading plan proposes drainage facilities on adjacent off-site property, the owner/ applicant shall provide a copy of the recorded drainage easement or copy of Final Map.

060 - BS-Grade	IF WQMP IS REQUIRED	Status
Prior To Grading Permit Issuance		Unsatisfied

If a Water Quality Management Plan (WQMP) is required, the owner / applicant shall submit to the Building & Safety Department, the Final Water Quality Management Plan (WQMP) site plan for comparison to the grading plan.

060 - BS-Grade	IMPROVEMENT SECURITIES	Status
Prior To Grading Permit Issuance		Unsatisfied

Prior to issuance of a Grading Permit, the applicant may be required to post a Grading and/or Erosion

Code section 1602. If CDFW determines that a Lake or Streambed Alteration Agreement is required as a result of the Notification process, the applicant shall provide the final Agreement documentation. If the agency decides no permit is required, the applicant shall provide evidence of communication to that effect from the agency.

060 - Planning-EPD
Prior To Grading Permit
Issuance

EPD

Status
Unsatisfied

Birds and their nests are protected by the Migratory Bird Treaty Act (MBTA) and California Department of Fish and Wildlife (CDFW) Codes. Since the project supports suitable nesting bird habitat, removal of vegetation or any other potential nesting bird habitat disturbances shall be conducted outside of the avian nesting season (January 1st through August 31st). If habitat must be cleared during the nesting season, a preconstruction nesting bird survey shall be conducted. The preconstruction nesting bird survey must be conducted by a biologist who holds a current MOU with the County of Riverside. If nesting activity is observed, appropriate avoidance measures shall be adopted to avoid any potential impacts to nesting birds. The nesting bird survey must be completed no more than 3 days prior to any ground disturbance. If ground disturbance does not begin within 3 days of the survey date a second survey must be conducted. Prior to issuance of a permit for rough grading, the project's consulting biologist shall prepare and submit a ~~report~~, documenting ~~the results of the survey~~.

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In some cases EPD may also require a Monitoring and Avoidance Plan prior to the issuance of a rough grading permit. If the rough grading permit expires this condition will reapply, and a new survey may be required prior to issuance of future grading permits. When the requested documents/studies are completed and ready for EPD review, please upload them to our Secure File Transfer server to ensure prompt response and review. If you are unfamiliar with the process for uploading biological documents to the FTP site, please contact Matthew Poonamallee at mpoonama@rivco.org and Teresa Harness at tharness@rivco.org for instructions. Biological reports not uploaded to the FTP site may result in delayed review and approval.

Commented [RS6]: This is somewhat duplicative of and inconsistent with 015-Planning, GEN - Mitigation Measures section up above. Suggest deleting this. But if it must remain, we recommend the revised language. Otherwise, it's very difficult to comply with given that survey required prior to receiving grading permit AND 3 days prior to grading.

060 - Planning-EPD
Prior To Grading Permit
Issuance

EPD

Status
Unsatisfied

Prior to issuance of any grading permit, a biologist with a Memorandum of Understanding with Riverside County will prepare a Restoration Plan to cover the restoration of ~~the~~ new temporary disturbance ~~found~~ found in Coachella Valley Jerusalem cricket habitat on site. In order to ensure restoration of the habitat values of temporary disturbance areas to pre-disturbance levels, the Restoration Plan will include, but may not be limited to, the following: Goals and Objectives, Success Criteria, Methods of Restoration, Establishments of Sample Plot(s) and Reference Plot(s), Timeline for Completion of Restoration, Qualifications for Personnel Implementing Restoration Plan, Onsite Biological Monitoring and Reporting Requirements, Description of the Process for Evaluating Disturbed Areas, Description of Anticipated Re-Vegetation, Description of How Invasive Plant Species Will Be Addressed If the Restoration Plan is not executed to the satisfaction of the County of Riverside and the CVCC, a Transfer of Conservation Goals associated with the Conservation Objectives

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Commented [RS7]: CVAG has stated that the revised disturbed acres, per their calculation, is 3.0 acres. So, it seems prudent to 'un-state' the amount until the final JPR is complete.

Prior To Building Permit
Issuance

Unsatisfied

Prior to the approval of any grading or building permits, whichever comes first, for any part of the Project requiring access across the Metropolitan Water District's property per Road License No. 659 (?RL 659?), the Applicant shall provide Riverside County proof that RL 659 is in effect. The Applicant shall also provide proof of written approval by Metropolitan Water District for Applicant's use of any equipment or engagement of any activity across its property associated with RL 659 which would impose loads greater than AASHTO H-20.

080 - Planning

Prior To Building Permit
Issuance

Gen - Stake Property

Status

Unsatisfied

PRIOR TO ISSUANCE OF BUILDING PERMITS, the permit holder shall place identified stakes at each corner of the property containing this commercial WECS permit and at the corners of the actual construction site, as shown in the APPROVED EXHIBIT "A". Additional stakes may be required, as determined by the Planning Director or Building Director. The stakes shall extend at least three (3) feet above the ground and shall be maintained during the construction, repowering and restoration period(s) of this WECS permit. The Planning Department shall require the permit holder to submit written certification from a state licensed professional and/or inspection by county staff in order to verify compliance with this condition of approval.

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080 - Planning

Prior To Building Permit
Issuance

Gen - Structure

Status

Unsatisfied

Prior to the issuance of building permits for any WECS and towers, a California registered structural and electrical engineer shall certify, in writing, to the satisfaction of the Director of the Department of Building and Safety, that the WECS foundations, tower and compatibility of the tower with the rotor and the rotor related equipment, and the electrical system, conform with good engineering practice and comply with the applicable provisions of the Uniform Building and Electrical Code that have been adopted by the County of Riverside.

080 - Planning

Prior To Building Permit
Issuance

WCS - Bond or Security

Status

Unsatisfied

Prior to Building Permit Issuance for the WECS or towers allowed by this permit, a bond or other appropriate and sufficient security shall be filed with the County by the WECS permit holder. The bond or other security shall be in sufficient amount to cover the costs of WECS removal and site restoration (including but not limited to removal of the foundation and underground electrical cables up to three feet below grade, tower, transformer and cables) after accounting for the salvage value of the WECS and ancillary equipment should any WECS become unsafe, inoperable or abandoned within five (5) years after the issuance of the building permits. The bond shall be held for five (5) years after the issuance of building permits, but may be released sooner by the Board of Supervisors upon approval of a final demolition and site restoration inspection by the Department of Building and Safety. Thereafter, and

Ordinance, which shall mean the net area, measured in acres, from the adjacent road right-of-way to the limits of the project development. The Project Area for Commercial WECS Permit No. 180001 has been calculated to be [REDACTED] 36.33 acres of new permanent disturbed acres. [REDACTED]

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090 - Planning

Prior to Building Final Inspection

Gen - Ord. 875 (CVMSHCP Fees)

Status

Unsatisfied

Prior to building permit final inspection, the permit holder shall comply with the provisions of Riverside County Ordinance No. 875, which requires the payment of the appropriate fee set forth in the ordinance. The amount of the fee will be based on the "Project Area" as defined in the ordinance and the aforementioned condition of approval. The Project Area for Commercial WECS Permit No. 180001 is calculated to be [REDACTED] 36.33 acres of new permanent disturbance. [REDACTED]

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[REDACTED] In the event Riverside County Ordinance No. 875 is rescinded, this condition will no longer be applicable. However, in the event Riverside County Ordinance No. 875 is rescinded and superseded by a subsequent mitigation fee ordinance, payment of the appropriate fee set forth in that ordinance shall be required.

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090 - Planning

Prior to Building Final Inspection

Gen - Perimeter Fence

Status

Unsatisfied

PRIOR TO FINAL BUILDING INSPECTION APPROVAL of the first WECS and tower, a six (6) foot high chain-link fence or three (3) strand barbed-wire fence and locking portals along the perimeter of APN 516-030-014 and the western perimeter of parcels APN 516-030-008 and APN 516-030-004 shall be verified to be in good condition so as to prevent and discourage unauthorized entry at all times during the life of this WECS permit. Should the project be near I-10, Highway 62 or Highway 111, the existing/proposed fence shall be verified to be setback a minimum of 400 feet from the respective highway right-of-way unless otherwise approved by the Planning Department based on security requirements. Any changes to the existing fence shall be subject to the approval of the Department of Building and Safety.

090 - Waste Resources

Prior to Building Final Inspection

Gen - Waste Reporting Form and Receipts

Status

Unsatisfied

Prior to final building inspection, evidence (i.e., waste reporting form along with receipts or other types of verification) to demonstrate project compliance with the approved Waste Recycling Plan (WRP) shall be presented by the project proponent to the Planning Division of the Riverside County Department of Waste Resources. Receipts must clearly identify the amount of waste disposed and Construction and Demolition (C&D) materials recycled.

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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November 19, 2018

VIA EMAIL AND U.S. MAIL

Carolyn Syms-Luna
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Riverside County Planning
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VIA EMAIL ONLY

Jay T. Olivas
Urban Regional Planner IV
Email: jolivas@rivco.org

**Re: Public Records Act Request - Painted Hills Wind Energy
Repowering Project (SCH No. 2018101062)**

Dear Ms. Syms-Luna, Ms. Harper-Ihem, and Mr. Olivas:

We are writing on behalf of California Unions for Reliable Energy ("CURE") to request **immediate access** to any and all public records referring or related to the Painted Hills Wind Energy Repowering Project (SCH No. 2018101062) ("Project"), proposed by Painted Hills Wind, LLC. This request includes, but is not limited to, any and all materials, correspondence, resolutions, memos, notes, analyses, electronic mail messages, files, maps, charts, and/or any other documents related to the Project.

The Project includes decommissioning and removal of approximately 291 existing commercial wind turbines and installation of up to 14 new commercial wind turbines up to 499 ft in height with a per turbine generating capacity of between 2.0 megawatts (MW) and 4.2 MW on land within the Wind Energy Resource (W-E) Zone. The project also proposes to install ancillary equipment, including 3 temporary, guyed meteorological towers up to 309-ft in height, a temporary expansion of an existing laydown yard, construction of new temporary

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and permanent internal access roads, and a new electrical collection system integrating the proposed wind turbines to the electrical grid. The Project site is located at Section 1 of Township 3 South, Range 3 East, in an unincorporated area of Riverside County, CA (APNs 516-030-004, -008, -014, and -015).

This request is made pursuant to the California Public Records Act. (Government Code §§ 6250, et seq.) This request is also made pursuant to Article I, section 3(b) of the California Constitution, which provides a Constitutional right of access to information concerning the conduct of government. Article I, section 3(b) provides that any statutory right to information shall be broadly construed to provide the greatest access to government information and further requires that any statute that limits the right of access to information shall be narrowly construed.

We request *immediate access* to review the above documents pursuant to section 6253(a) of the Public Records Act, which requires public records to be "open to inspection at all times during the office hours of the state or local agency" and provides that "every person has a right to inspect any public record." Gov. Code § 6253(a). Therefore, the ten-day response period applicable to a "request for a copy of records" under Section 6253(c) does not apply to this request.

Pursuant to Government Code Section 6253.9, if the requested documents are in electronic format and are 10 MB or less (or can be easily broken into sections of 10 MB or less), please email them to me as attachments.

My contact information is:

U.S. Mail

Sheila Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Email

ssannadan@adamsbroadwell.com

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I will be calling you to arrange for duplication/transmission of the documents.
If you have any questions, please call our South San Francisco office at (650) 589-1660. Thank you for your assistance with this matter.

Sincerely,



Sheila M. Sannadan
Legal Assistant

SMS:pae

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November 26, 2018

Via Email and Overnight Mail

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**Re: Comments on the Initial Study/Mitigated Negative Declaration
for Painted Hills Wind Repowering Project, WECS Permit No.
180001/Variance Case No. 180003**

Dear Mr. Olivas:

We write on behalf of California Unions for Reliable Energy ("CURE") to provide comments on the Initial Study/Mitigated Negative Declaration ("IS/MND")¹ prepared by Riverside County ("County") for the Painted Hills Wind Repowering Project ("Project"), proposed by Painted Hills, LLC, which is owned by Terra-Gen ("Applicant").

The Project proposes to decommission and remove approximately 291 existing commercial wind turbines and install up to 14 new commercial wind turbines up to 499-feet in height with a per turbine generating capacity of between 2.0 megawatts ("MW") and 4.2 MW, which is up to 58.8 total MW, on land within the Wind Energy Resource Zone. The Project will also install ancillary equipment, including meteorological towers up to 309-feet in height, new access roads, collector circuits, and substation.

Based on our review of the IS/MND, and available documents, we conclude that the IS/MND fails to comply with the requirements of the California Environmental Quality Act ("CEQA"). The IS/MND fails to describe the whole

¹ Environmental Assessment Form: Initial Study Number CEQ180059, County of Riverside, at 2 (Oct. 2018) (hereafter "IS/MND").

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Project, fails to describe the existing setting upon which to measure impacts, fails to disclose and analyze the Project's potentially significant environmental impacts and fails to identify enforceable measures that can reduce those impacts to a less than significant level.

As explained in these comments, there is more than a fair argument that the Project will result in potentially significant public health impacts from construction emissions. The County may not approve the Project until it prepares an environmental impact report ("EIR") that adequately analyzes the Project's potentially significant direct, indirect and cumulative impacts, and incorporates all feasible mitigation measures to avoid or minimize these impacts.

These comments were prepared with the assistance of Phyllis Fox, Ph.D., PE.² Dr. Fox provides substantial evidence of potentially significant impacts that have not been adequately disclosed, analyzed, or mitigated. Dr. Fox's technical comments are attached hereto and are submitted to the County, in addition to the comments in this letter. Accordingly, the County must address and respond to Dr. Fox's comments separately.³

I. STATEMENT OF INTEREST

CURE is a coalition of labor organizations whose members construct, operate, and maintain powerplants and other industrial facilities throughout California. CURE encourages sustainable development of California's energy and natural resources. Environmental degradation destroys cultural and wildlife areas, consumes limited water resources, causes air and water pollution, and imposes other stresses on the environmental carrying capacity of the State. Environmental degradation also jeopardizes future jobs by making it more difficult and expensive for industry to expand in Riverside County, and by making it less desirable for businesses to locate and for people to live and recreate in the area. Continued environmental degradation can, and has, caused construction moratoriums and

² P. Fox, Comments on the Initial Study for the Painted Hills Wind Energy Repowering Project (November 26, 2018) (hereinafter, "Fox Comments"), Exhibit A (Dr. Fox's letter and CV are provided via email).

³ The Commenters reserve the right to supplement these comments at later hearings and proceedings related to this Project. Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.
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other restrictions on growth that, in turn, reduce future employment opportunities for CURE's participating organizations and their members. CURE therefore has a direct interest in enforcing environmental laws and minimizing project impacts that would degrade the environment.

CURE's participating organizations and their members also live, recreate, work, and raise families in Riverside County. Thus, CURE, its participating organizations and their members stand to be directly affected by the Project's adverse environmental and health impacts. Members may also work on the Project itself and would therefore be first in line to be exposed to any health and safety hazards that the Project may create.

II. AN EIR IS REQUIRED

CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR.⁴ "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR protects not only the environment, but also informed self-government."⁵ The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return."⁶

CEQA's purpose and goals must be met through the preparation of an EIR, except in certain limited circumstances.⁷ CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the "fair argument" standard. Under that standard, a lead agency "shall" prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.⁸

⁴ See Pub. Resources Code § 21000; CEQA Guidelines § 15002.

⁵ *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (internal citations omitted).

⁶ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

⁷ See Pub. Resources Code § 21100.

⁸ Pub. Resources Code §§ 21080(d), 21082.2(d); CEQA Guidelines §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

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In contrast, a mitigated negative declaration may be prepared only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but:

(1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review *would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur*, and (2) there is *no substantial evidence* in light of the whole record before the public agency that the project, as revised, *may have a significant effect on the environment.*⁹

Courts have held that if "no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR."¹⁰ The fair argument standard creates a "low threshold" favoring environmental review through an EIR, rather than through issuance of a negative declaration.¹¹ An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.¹²

"Substantial evidence" required to support a fair argument is defined as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached."¹³ According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064, subdivision (f):

⁹ Pub. Resources Code § 21064.5 (emphasis added).

¹⁰ See, e.g., *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320.

¹¹ *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.

¹² *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; see also *Friends of B Street v. City of Hayward* (1990) 106 Cal.App.3d 988, 1002 ("If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it could be 'fairly argued' that the project might have a significant environmental impact").

¹³ CEQA Guidelines § 15384(a).

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[I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

Furthermore, CEQA documents, including EIRs and MNDs, must mitigate significant impacts through measures that are "fully enforceable through permit conditions, agreements, or other legally binding instruments."¹⁴ Deferring formulation of mitigation measures to post-approval studies is generally impermissible.¹⁵ Mitigation measures adopted after Project approval deny the public the opportunity to comment on the Project as modified to mitigate impacts.¹⁶ If identification of specific mitigation measures is impractical until a later stage in the Project, specific performance criteria must be articulated and further approvals must be made contingent upon meeting these performance criteria.¹⁷ Courts have held that simply requiring a project applicant to obtain a future report and then comply with the report's recommendations is insufficient to meet the standard for properly deferred mitigation.¹⁸

With respect to this Project, the IS/MND fails to satisfy the basic purposes of CEQA. The County failed to adequately investigate, analyze, and disclose the Project's potentially significant impacts. Therefore, the County's conclusions that the Project will have less than significant air quality and public health impacts are unsupported.¹⁹ Whereas the County lacks substantial evidence to support its conclusions, Dr. Fox provides substantial evidence that the Project may result in potentially significant public health impacts from construction emissions.²⁰

¹⁴ CEQA Guidelines § 15126.4(a)(2).

¹⁵ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309; Pub. Resources Code § 21061.

¹⁶ *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1393; *Quail Botanical, supra*, 29 Cal.App.4th at p. 1604, fn. 5.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Pub. Resources Code § 21064.5; MND, pp. 31-36.

²⁰ Fox Comments, p. 2.

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Therefore, a fair argument can be made that the Project may cause significant impacts requiring the preparation of an EIR.

III. THE IS/MND FAILS TO INCLUDE A COMPLETE PROJECT DESCRIPTION

The IS/MND does not meet CEQA's requirements because it fails to include a complete project description, rendering the entire analysis inadequate. Without a complete project description, the environmental analysis under CEQA will be impermissibly narrow, thus minimizing the Project's impacts and undercutting public review.²¹

CEQA places the burden of environmental investigation on the government rather than the public. Accordingly, a lead agency may not hide behind its failure to obtain a complete and accurate project description.²² CEQA requires that the project description contained in a CEQA document that is circulated for public review contain sufficiently detailed information to permit a meaningful evaluation and review of the potential environmental impacts of a proposed project.²³ California courts have repeatedly held that "an accurate, stable and finite project description is the sine qua non of an informative and legally sufficient [CEQA document]."²⁴ In contrast, an inaccurate or incomplete project description renders the analysis of environmental impacts inherently unreliable. Without a complete project description, the environmental analysis under CEQA will be impermissibly narrow, thus minimizing the project's impacts and undercutting public review.²⁵

A. The IS/MND Fails to Describe the Transportation of the New Turbine Blades to the Project Site

The Project consist of numerous large components, including 213-foot wind turbine blades.²⁶ The IS/MND is silent as to how these components will be transported to the Project site. Wind turbine blades cannot be manufactured on-

²¹ See, e.g., *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376.

²² *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

²³ 14 Cal. Code Regs. § 15124 (hereafter "CEQA Guidelines").

²⁴ *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal.App.3d 185, 193.

²⁵ See, e.g., *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376.

²⁶ IS/MND, at 2.

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site, thus requiring transport.²⁷ Furthermore, the nearest blade manufacturer to the Project site is in Colorado.²⁸ This means that the blades may have to travel over land, either a far distance from other states, or from a nearby port, such as Long Beach. Transportation of such long pieces of equipment is difficult, requiring careful planning to ensure they are routed through turns properly. These large blades will require several diesel-powered trucks to move and may have to operate very slowly.²⁹

Transporting large components of the Project has the potential to lead to serious impacts. Traffic could be severely delayed moving such long blades, especially if they are routed through existing congested traffic corridors, such as Los Angeles. The use of diesel engines could increase exposure sensitive populations to Toxic Air Contaminants ("TACs"), which can lead to heightened cancer risks to those who live and work along the route.³⁰

Depending on which route is selected, different homes and schools will be affected. Residents and school patrons may be required to modify their own schedules and practices to accommodate, or avoid the adverse effects of, the trucks in their neighborhood. The County must also analyze the impacts that each potential route will cause to the differently affected neighborhoods and must identify appropriate mitigation measures that will mitigate significant impacts to each neighborhood.

B. The IS/MND Fails to Accurately Describe the Decommissioning of the Existing 291 Wind Turbines

The IS/MND discusses the decommission of existing wind turbines from the Project site but does not disclose disposal of the existing wind turbines.³¹ Cutting up of wind turbines can release hazardous fibers into the air, which can negatively

²⁷ See Next-Generation Wind Energy Technologies and their Environmental Implications, California Energy Commission (Oct. 29, 2018) available at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?dockatnumber=19-ERDD-01>.

²⁸ Ryan Wiser and Mark Bolinger, 2017 Wind Technologies Market Report, United States Department of Energy, 12 (Aug. 2018) available at https://emp.lbl.gov/sites/default/files/2017_wind_technologies_market_report.pdf.

²⁹ Fox Comments at p. 11.

³⁰ Fox Comments at p. 11.

³¹ Fox Comments at p. 8.

impact public health. The IS/MND fails to discuss where the blades will be cut up, what equipment will be used, and where material would be shipped for recycling.³² Moreover, the IS/MND discusses recycling the blade material, however this material is not suitable for recycling. The IS/MND must accurately describe the decommissioning and disposal of the existing wind turbines.

All phases of the Project — the “whole of an action” — must be evaluated in a single EIR. Accordingly, the District must revise and recirculate the environmental document to include a description of the Project transporting components to and from the Project site.

IV. THE IS/MND FAILS TO ADEQUATELY ESTABLISH THE EXISTING ENVIRONMENTAL SETTING AGAINST WHICH THE COUNTY IS REQUIRED TO ANALYZE THE PROJECT'S POTENTIALLY SIGNIFICANT IMPACTS

The IS/MND describes the existing environmental setting inaccurately and incompletely, thereby skewing the County's impact analysis. The existing environmental setting is the starting point from which the lead agency must measure whether a proposed Project may cause a significant environmental impact.³³ CEQA defines the environmental setting as the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, from both a local and regional perspective.³⁴

Describing the environmental setting accurately and completely for each environmental condition in the vicinity of the Project is critical to an accurate and meaningful evaluation of environmental impacts. The importance of having a stable, finite and fixed environmental setting for purposes of an environmental analysis was recognized decades ago.³⁵ Today, the courts are clear that “[b]efore the impacts of a Project can be assessed and mitigation measures considered, an [EIR]

³² Fox Comments at pp. 8-9.

³³ See, e.g., *Communities for a Better Env't v. S. Coast Air Quality Mgmt. Dist.* (March 15, 2010) 48 Cal.4th 310, 316; *Fat v. City of Sacramento* (2002) 97 Cal.App.4th 1270, 1278, citing Remy, et al.; Guide to the Calif. Environmental Quality Act (1999) p. 165.

³⁴ CEQA Guidelines, §15126, subd. (a); *Riverwatch v. City of San Diego* (1999) 76 Cal.App.4th 1428, 1453.

³⁵ *City of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185.

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must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined."³⁶

An EIR must also describe the existing environmental setting in sufficient detail to enable a proper analysis of project impacts.³⁷ The CEQA Guidelines provide that "[k]nowledge of the regional setting is critical to the assessment of environmental impacts."³⁸ This level of detail is necessary to "permit the significant effects of the project to be considered in the full environmental context."³⁹

The IS/MND fails to accurately and adequately describe the environmental setting to enable the County to properly assess transportation, air and public health impacts from the Project. Decision makers cannot determine the Project's impacts, and in turn, apply appropriate mitigation for those impacts, without an accurate description of the environmental setting. The County must gather the relevant data and revise the IS/MND to include an accurate and complete description of the existing environmental setting.

A. The IS/MND Fails to Establish the Environmental Setting for Traffic, the Air Basin, and Sensitive Receptors Along the Blade Transit Route

As stated above, the IS/MND is silent on how the Project will transport 218-foot-long wind turbine blades to the Project site.⁴⁰ What is also lacking is an adequate description of existing traffic patterns, the air basin, and sensitive receptors along the route so that there can be a comparison between the existing setting and effects on traffic and air quality from the Project on sensitive receptors.⁴¹ Since the IS/MND fails to describe existing traffic patterns, the air basin and sensitive receptors, the County failed to establish the existing setting and cannot make an effective determination of the Project's impacts and mitigation required to address those impacts.⁴²

³⁶ *City of Amador v. El Dorado City Water Agency* (1999) 76 Cal.App.4th 931, 952.

³⁷ *Galante Vineyards v. Monterey Peninsula Water Mgmt. Dist.* (1997) 60 Cal.App.4th 1109, 1121-22.

³⁸ CEQA Guidelines § 15125, subd.(d).

³⁹ *Id.*

⁴⁰ Fox Comments at p. 11.

⁴¹ Fox Comments at p. 11.

⁴² Fox Comments at p. 11.

V. SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT MAY RESULT IN SIGNIFICANT IMPACTS THAT REQUIRE THE COUNTY TO PREPARE AN EIR

Under CEQA, a lead agency must prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.⁴³ The fair argument standard creates a "low threshold" favoring environmental review through an EIR, rather than through issuance of a negative declaration.⁴⁴ An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.⁴⁵ Substantial evidence can be provided by technical experts or members of the public.⁴⁶ "If a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect."⁴⁷

A. The IS/MND Fails to Adequately Disclose, Analyze and Mitigate the Project's Potentially Significant Public Health Risks.

The IS/MND fails as an information disclosure document under CEQA by failing to adequately disclose, analyze, and mitigate the Project's public health impacts. The County concludes that "the toxics impact related to construction would

⁴³ Pub. Resources Code § 21062.2; CEQA Guidelines § 15064(f), (h); *Laurel Heights II, supra*, 6 Cal. 4th at p. 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical, supra*, 29 Cal.App.4th at pp. 1601-1602.

⁴⁴ *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.

⁴⁵ *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; see also *Friends of B Street, supra*, 106 Cal.App.3d at p. 1002 ("If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an [environmental impact report] and adopt a negative declaration, because it could be 'fairly argued' that the project might have a significant environmental impact").

⁴⁶ See, e.g., *Citizens for Responsible and Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1340 (substantial evidence regarding noise impacts included public comments at hearings that selected air conditioners are very noisy); see also *Architectural Heritage Assn. v. County of Monterey*, 122 Cal.App.4th 1095, 1117-1118 (substantial evidence regarding impacts to historic resource included fact-based testimony of qualified speakers at the public hearing); *Gabric v. City of Rancho Palos Verdes* (1977) 73 Cal.App.3d 183, 199.

⁴⁷ CEQA Guidelines § 15062(f).

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be less than significant."⁴⁸ The County lacks substantial evidence to support this conclusion. Instead, Dr. Fox provides substantial evidence that the public health risk may be significant.⁴⁹

CEQA requires lead agencies to prepare risk assessments to evaluate the nature and extent of the health hazards posed by exposure to toxic materials released by a project. CEQA Guidelines section 15126.2(a) expressly requires a CEQA document to discuss the "health and safety problems caused by the physical changes that a project will precipitate."⁵⁰ Numerous cases have held that CEQA must analyze human health impacts. For example, in *Communities for a Better Environment v. South Coast Air Quality Management District*,⁵¹ the Supreme Court held that a Mitigated Negative Declaration for a refinery was inadequate for failure to analyze nitrogen oxide emissions, pollutants known to have significant effects on human health.⁵²

The Courts of Appeal have repeatedly held that a CEQA document must analyze impacts of projects on human health. In *Communities for a Better Environment v. City of Richmond*, the court held that a CEQA document is inadequate where it "does not address the public health or other environmental consequences of processing heavier crude [thereby emitting Toxic Air Contaminants ("TAC")], let alone analyze, quantify, or propose measures to mitigate those impacts."⁵³ In *Bakersfield Citizens for Local Control v. City of Bakersfield*,⁵⁴ the court held that an EIR for a commercial shopping center was inadequate because it failed to correlate adverse air quality impacts to resulting adverse health impacts on surrounding communities. The court explained:

⁴⁸ DEIR, § 4.2, p. 31.

⁴⁹ Fox Comments, p. 2.

⁵⁰ CEQA Guidelines, § 15126.2(a).

⁵¹ *Communities for a Better Environment v. South Coast Air Quality Management District*, (2010) 48 Cal. 4th 310, 317.

⁵² 48 Cal.4th at 317.

⁵³ *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 82. See also *Californians for Alternatives to Toxics v. Cal. Dep't of Food & Agric.* (2006) 136 Cal.App.4th 1, 16, (EIR on statewide application of pesticide was inadequate when it failed to independently evaluate risks of toxic exposure.)

⁵⁴ (2004) 124 Cal.App.4th 1184, 1219-20 ("on remand, the health impacts resulting from the adverse air quality impacts must be identified and analyzed in the new EIR's.").

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[The] City's failure to...correlate the adverse air quality impacts to resulting adverse health consequences, cannot be dismissed as harmless or insignificant defects. As a result of these omissions, meaningful assessment of the true scope of numerous potentially serious adverse environmental effects was thwarted. No discrete or severable aspects of the projects are unaffected by the omitted analyses; the defects relate to the shopping centers in their entirety, not just to one specific retailer. These deficiencies precluded informed public participation and decision making.⁵⁵

In *Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.*,⁵⁶ the court held that an EIR must include a "human health risk assessment."⁵⁷ In *Berkeley Jets*, the Port of Oakland approved a development plan for the Oakland International Airport. The EIR admitted that the Project would result in an increase in the release of TACs, which were known to cause both carcinogenic and adverse noncarcinogenic health effects.⁵⁸ The EIR adopted mitigation measures to reduce TAC emissions but failed to perform a health risk assessment to quantify the Project's impacts on human health. The court held that the mitigation measures alone were insufficient, and that the Port had a duty to analyze the health risks associated with exposure to TACs:

The Port has not cited us to any reasonably conscientious effort it took either to collect additional data or to make further inquiries of environmental or regulatory agencies having expertise in the matter. These failures flout the requirement that the lead agency consult "with all responsible agencies and with any other public agency which has jurisdiction by law over natural resources affected by the project . . ." (§ 21080.3, subd. (a).) At the very least, the documents submitted by the public raised substantial questions about the project's effects on the environment and the unknown health risks to the area's residents...the Port has not offered any justification why more definitive information could not have been provided....The EIR's approach of simply labeling the effect "significant" without accompanying analysis of the project's impact on the health of the Airport's employees and nearby

⁵⁵ *Id.*, at 1220-21.

⁵⁶ *Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs. ("Berkeley Jets")* (2001) 91 Cal.App.4th 1344.

⁵⁷ *Id.*, at 1369.

⁵⁸ *Id.*, at 1364.

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residents is inadequate to meet the environmental assessment requirements of CEQA.⁵⁹

Here, the County is required to conduct an assessment of the Project's potentially significant public health impacts. As in *Berkeley Jets*, there is no dispute that the Project will use off-road diesel construction equipment and on-road heavy-duty diesel trucks that generate Diesel Particulate Matter ("DPM") emissions.⁶⁰ The IS/MND identifies DPM as the main TAC of concern.⁶¹ Construction would occur near sensitive receptors⁶² over a period of approximately 18 months.⁶³ There is also no dispute that the County did not prepare an assessment of the health risks associated with that exposure. This violates CEQA's requirement that the lead agency correlate the adverse air quality impacts generated by a project to their resulting adverse health consequences.⁶⁴

The courts may not look for "perfection" in a CEQA document, but do expect "adequacy, completeness, and a good faith effort at full disclosure [in an EIR]."⁶⁵ The County has failed to meet these requirements. Dr. Fox explains that health risk assessments are routinely performed for construction projects and due to the proximity to sensitive receptors and duration of construction.⁶⁶ The failure to prepare a health risk assessment is a glaring omission. The County must prepare a health risk assessment to adequately disclose, analyze, and mitigate the Project's public health risks and disclose those significant risks in a revised and recirculated document.

⁵⁹ *Id.* at 1370-71.

⁶⁰ Fox Comments, p. 2.

⁶¹ Fox Comments, p. 2.

⁶² Fox Comments, p. 2 (some sensitive receptors are less than 25 meters from excavation work).

⁶³ DEIR, § 4.2, p. 31.

⁶⁴ *Berkeley Jets*, 91 CalApp.4th at 1370-71; DEIR, § 4.2, pp. 23-24 (identifying significant unmitigated construction emissions)

⁶⁵ CEQA Guidelines, § 15151.

⁶⁶ Fox Comments, p. 5.

B. The IS/MND Fails to Adequately Disclose, Analyze and Mitigate the Project's Potentially Significant Odor Impacts.

Rather than conduct an adequate analysis of odor impacts from construction, the IS/MND merely concludes that odor impacts would be less than significant. The County's conclusion is flawed for several reasons.

First, CEQA requires a lead agency to identify all potentially significant environmental effects. Significant effects may be "both short-term and long-term."⁶⁷ Thus, even temporary Project impacts may have significant effects on the environment that require mitigation.⁶⁸ CEQA does not permit the County to dismiss odor impacts on the basis that they are "temporary."

Second, the County lacks substantial evidence to support its less-than-significant impact conclusion. Project construction will result in diesel exhaust.⁶⁹ As Dr. Fox explains, the odors associated with diesel exhaust "are characterized by offensive odors."⁷⁰ Yet, the IS/MND does not contain any analysis at all to support its conclusion that odor impacts would not be significant.⁷¹ The only way to conclude that odor impacts are insignificant is to use air dispersion modeling to estimate ambient concentrations of DPM at nearby sensitive receptors and compare the resulting concentrations to DPM odor thresholds.⁷² In any case, the County conducted no analysis whatsoever. Thus, the IS/MND fails as an informational document under CEQA and the County lacks substantial evidence to support its conclusion.

Whereas the IS/MND lacks substantial evidence to support its conclusion, Dr. Fox provides substantial evidence based on her expert opinion that odor impacts will be significant.⁷³ The County admits that the primary source of odor anticipated from the construction of the proposed Project would be exhaust emissions from the diesel equipment. Dr. Fox comments, "[b]ased on my personal experience at construction sites, residential areas are close enough to Project construction sites

⁶⁷ CEQA Guidelines, § 15126.2(a).

⁶⁸ CEQA Guidelines, § 15126.2(a).

⁶⁹ Fox Comments, p. 5.

⁷⁰ Fox Comments, p. 6.

⁷¹ Fox Comments, p. 6.

⁷² Fox Comments, p. 7.

⁷³ CEQA Guidelines, § 15384.

for residents to smell noxious diesel and other exhaust fumes.⁷⁴ Furthermore, mitigation is available and should be required to reduce the significant odor impact from all construction within at least 1,000 feet of sensitive receptors.⁷⁵ For example, the construction equipment can be equipped with diesel oxidation catalysts, which eliminate odors.⁷⁶

The IS/MND fails as an information disclosure document by failing to adequately analyze and disclose the Project's potentially significant odor impacts. Consequently, the County must revise and recirculate the analysis in a draft EIR to adequately disclose, analyze and mitigate the Project's significant odor impact.

C. The IS/MND Underestimates Potentially Significant Construction Emissions

The IS/MND contains numerous flaws in its air quality analysis, rendering the analysis unreliable and the impacts underestimated. The County must revise the air quality analysis to account for all sources of construction emissions and operational emissions in a recirculated environmental document.

The IS/MND omits highly relevant information from its air quality analysis. As a result, the IS/MND underestimates construction emissions. Dr. Fox explains that the CalEEMod fails to account for all sources of PM₁₀ and PM_{2.5} construction emissions.

First, CalEEMod omits windblown dust from graded areas and storage piles and fugitive dust from off-road travel.⁷⁷ As Dr. Fox explains, these emissions must be separately calculated using a different tool, the U.S. EPA Compilation of Air Pollution Emissions Factors AP-42.⁷⁸ Once separately calculated, those emissions must be added to the CalEEMod total.⁷⁹ Dr. Fox provides substantial evidence that windblown dust from graded areas and storage piles and fugitive dust from off-road

⁷⁴ Fox Comments, p. 6.

⁷⁵ Fox Comments, p. 8.

⁷⁶ Fox Comments, p. 8.

⁷⁷ Fox Comments, p. 12.

⁷⁸ Fox Comments, p. 12.

⁷⁹ Fox Comments, p. 12.

travel can be the major sources of PM10 and PM2.5 emissions from construction projects.⁸⁰

Dr. Fox adds that dust emissions during construction are unique to individual sites. Here, the Project is sited on desert land in Coachella Flats, which will create greater particulate matter emissions than default conditions.⁸¹ As such, the default conditions should have been calibrated to reflect the actual site.⁸²

The IS/MND omits sources of emissions from cutting up and dismantling 291 existing wind turbines. The only source of emissions from decommissioning listed in the IS/MND addresses off-road construction impacts. A major source of emissions has been left out of decommissioning from fibers that can be released during cutting up of turbine blades, and any industrial equipment used during decommissioning.⁸³

The IS/MND states that the existing turbine blades will be recycled. No analysis is provided including the emissions from disposal of the cut-up blades.⁸⁴ If they can be recycled, then the IS/MND must determine emissions of moving the material to the recycling center.⁸⁵

Finally, the IS/MND severely underestimates emissions from moving the large new turbines to the site. These turbines would require non-standard heavy-duty transportation, including ships, barges, rail, trucks, or a combination thereof.⁸⁶ No analysis is attempted to determine the impacts from this activity.⁸⁷

This underestimation of construction emissions fails to provide the public with accurate information regarding the scope and severity of potentially significant impacts to air quality. The County must correct its analysis and recirculate the revised analysis to reflect these potentially significant impacts.

⁸⁰ Fox Comments, p. 12.

⁸¹ Fox Comments, p. 13.

⁸² Fox Comments, p. 13.

⁸³ Fox Comments, p. 13.

⁸⁴ Fox Comments, pp. 13-14.

⁸⁵ Fox Comments, p. 14.

⁸⁶ Fox Comments, p. 14.

⁸⁷ Fox Comments, p. 14.

D. The IS/MND Underestimates the Project's Potentially Significant Valley Fever Impacts and Lacks Appropriate Mitigation

The IS/MND summarily dismisses the Project's threat of Valley Fever to workers and sensitive receptors in the project area, while failing to implement feasible mitigation measures to lessen its impact. Valley Fever is a disease that can spread when people are exposed to spores during ground disturbance, such as this Project's construction.⁸⁸ Impacts to human health are severe, including possible death, and there is no known cure.⁸⁹ Sensitive receptors near the Project site, including workers and those who live nearby are at risk from exposure from disturbed dust, both during construction and during high-wind events.⁹⁰

Despite this risk, the IS/MND does not include any mitigation to protect the public.⁹¹ Dr. Fox has identified several mitigation measures that can feasibly be implemented to reduce the Project's potentially significant public health impacts from Valley Fever, including:

- 1) Reevaluating and updating the Injury and Illness Prevention Program to ensure Valley Fever safeguards are included,
- 2) Training all employees on Valley Fever related issues,
- 3) Controlling dust exposure,
- 4) Preventing transporting deadly spores out of endemic areas, and
- 5) Improving medical surveillance for all employees.⁹²

The County's lack of adequate analysis of potentially significant impacts from the Project exposing people to Valley Fever and feasible mitigation for Valley Fever

⁸⁸ Fox Comments, p. 20.

⁸⁹ Fox Comments, p. 22.

⁹⁰ Fox Comments, p. 21.

⁹¹ Fox Comments, pp. 24-25.

⁹² Fox Comments, pp. 25-27.

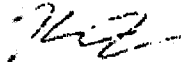
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renders the IS/MND insufficient under CEQA. The County must revise and recirculate an EIR to disclose and mitigate these serious impacts.

II. CONCLUSION

Substantial evidence supports more than a fair argument that the Project may result in potentially significant adverse public health impacts that were not identified in the IS/MND, and thus have not been adequately analyzed or mitigated. We urge the County to fulfill its responsibilities under CEQA by withdrawing the IS/MND and preparing a legally adequate EIR to address the potentially significant impacts described in this comment letter and the attached letter from Dr. Fox. This is the only way the County and the public will be able to ensure that the Project's potentially significant environmental impacts are mitigated to less than significant levels.

Sincerely,



Kyle Jones

KCJ:acp

Attachments

4449-003acp

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November 27, 2018

Via Email and Overnight Mail

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**Re: Supplemental Comments on the Initial Study/Mitigated Negative
Declaration for Painted Hills Wind Repowering Project, WECS
Permit No. 180001/Variance Case No. 180003**

Dear Mr. Olivas:

We write on behalf of California Unions for Reliable Energy ("CURE") to provide supplemental comments on the Initial Study/Mitigated Negative Declaration ("IS/MND")¹ prepared by Riverside County ("County") for the Painted Hills Wind Repowering Project ("Project"), proposed by Painted Hills, LLC, which is owned by Terra-Gen ("Applicant"). These comments supplement and incorporate by reference CURE's prior comments on the Project.²

The Project proposes to decommission and remove approximately 291 existing commercial wind turbines and install up to 14 new commercial wind turbines up to 499-feet in height with a per turbine generating capacity of between 2.0 megawatts ("MW") and 4.2 MW, which is up to 58.8 total MW, on land within the Wind Energy Resource Zone near Whitewater. The Project will also install ancillary equipment, including meteorological towers up to 309-feet in height, new access roads, collector circuits, and a substation.

¹ Environmental Assessment Form: Initial Study Number CEQ180059, County of Riverside, at 2 (Oct. 2018) (hereafter "IS/MND").

² CURE submitted comments on the Project to the County of Riverside Planning Commission on November 26, 2018.

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Based on our review of the IS/MND, and available documents, we concluded in our November 26, 2018 comment that the IS/MND fails to comply with the requirements of the California Environmental Quality Act ("CEQA"). The IS/MND fails to describe the whole Project, fails to describe the existing setting upon which to measure impacts, fails to disclose and analyze the Project's potentially significant environmental impacts and fails to identify enforceable measures that can reduce those impacts to a less than significant level. Our previous comment addressed issues related to air quality, public health, and traffic.

As explained in these comments, there is more than a fair argument that the Project will also result in potentially significant impacts to biological resources. In addition, the IS/MND fails to describe the whole Project and the existing setting upon which to measure impacts to biological resources, as required by CEQA. The County may not approve the Project until it prepares an environmental impact report ("EIR") that adequately analyzes the Project's potentially significant direct, indirect and cumulative impacts, and incorporates all feasible mitigation measures to avoid or minimize these impacts.

These comments were prepared with the assistance of Biologist and Independent Environmental Consultant Renée Owens.³ Ms. Owens provides substantial evidence of potentially significant impacts that the County failed to adequately disclose, analyze, and mitigate. Ms. Owens' technical comments are attached hereto and are submitted to the County, in addition to the comments in this letter. Accordingly, the County must address and respond to Ms. Owens' comments separately.⁴

³ Letter from Renée Owens to Kyle Jones (Nov. 27, 2018) Comments for the Painted Hills Wind Repowering Project Initial Study, Commercial WECS Permit No. 180001 / Variance Case No. 180003 – Intent to Adopt a Mitigated Negative Declaration – CEQ180059 (hereinafter, "Owens' Comments"), Exhibit A (Ms. Owens' letter and CV are provided via email).

⁴ The Commenters reserve the right to supplement these comments at later hearings and proceedings related to this Project. Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

I. STATEMENT OF INTEREST

CURE is a coalition of labor organizations whose members construct, operate, and maintain powerplants and other industrial facilities throughout California. CURE encourages sustainable development of California's energy and natural resources. Environmental degradation destroys cultural and wildlife areas, consumes limited water resources, causes air and water pollution, and imposes other stresses on the environmental carrying capacity of the State. Environmental degradation also jeopardizes future jobs by making it more difficult and expensive for industry to expand in Riverside County, and by making it less desirable for businesses to locate and for people to live and recreate in the area. Continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities for CURE's participating organizations and their members. CURE therefore has a direct interest in enforcing environmental laws and minimizing project impacts that would degrade the environment.

CURE's participating organizations and their members also live, recreate, work, and raise families in Riverside County. Thus, CURE, its participating organizations and their members stand to be directly affected by the Project's adverse environmental and health impacts. Members may also work on the Project itself and would therefore be first in line to be exposed to any health and safety hazards that the Project may create.

II. AN EIR IS REQUIRED

CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR.⁵ "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR protects not only the environment, but also informed self-government."⁶ The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return."⁷

⁵ See Pub. Resources Code § 21000; CEQA Guidelines § 15002.

⁶ *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (internal citations omitted).

⁷ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

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CEQA's purpose and goals must be met through the preparation of an EIR, except in certain limited circumstances.⁸ CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the "fair argument" standard. Under that standard, a lead agency "shall" prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.⁹

In contrast, a mitigated negative declaration may be prepared only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but:

(1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review *would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur*, and (2) there is *no substantial evidence* in light of the whole record before the public agency that the project, as revised, *may have a significant effect on the environment*.¹⁰

Courts have held that if "no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR."¹¹ The fair argument standard creates a "low threshold" favoring environmental review through an EIR, rather than through issuance of a negative

⁸ See Pub. Resources Code § 21100.

⁹ Pub. Resources Code §§ 21080(d), 21082.2(d); CEQA Guidelines §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

¹⁰ Pub. Resources Code § 21064.5 (emphasis added).

¹¹ See, e.g., *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320.

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declaration.¹² An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.¹³

"Substantial evidence" required to support a fair argument is defined as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached."¹⁴ According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064, subdivision (f):

[I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

Furthermore, CEQA documents, including EIRs and MNDs, must mitigate significant impacts through measures that are "fully enforceable through permit conditions, agreements, or other legally binding instruments."¹⁵ Deferring formulation of mitigation measures to post-approval studies is generally impermissible.¹⁶ Mitigation measures adopted after Project approval deny the public the opportunity to comment on the Project as modified to mitigate impacts.¹⁷ If identification of specific mitigation measures is impractical until a later stage in the Project, specific performance criteria must be articulated and further approvals

¹² *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.

¹³ *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; see also *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002 ("If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it could be 'fairly argued' that the project might have a significant environmental impact").

¹⁴ CEQA Guidelines § 15384(a).

¹⁵ CEQA Guidelines § 15126.4(a)(2).

¹⁶ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309; Pub. Resources Code § 21061.

¹⁷ *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1393; *Quail Botanical*, *supra*, 29 Cal.App.4th at p. 1604, fn. 5.

must be made contingent upon meeting these performance criteria.¹⁸ Courts have held that simply requiring a project applicant to obtain a future report and then comply with the report's recommendations is insufficient to meet the standard for properly deferred mitigation.¹⁹

With respect to this Project, the IS/MND fails to satisfy the basic purposes of CEQA. The County failed to adequately investigate, analyze, and disclose the Project's potentially significant impacts. Therefore, the County's conclusions that the Project will have less than significant biological resources impacts are unsupported.²⁰ Whereas the County lacks substantial evidence to support its conclusions, Ms. Owens provides substantial evidence that the Project may result in potentially significant biological resource impacts.²¹ Therefore, a fair argument can be made that the Project may cause significant impacts requiring the preparation of an EIR.

III. THE IS/MND FAILS TO INCLUDE A COMPLETE PROJECT DESCRIPTION

The IS/MND does not meet CEQA's requirements because it fails to include a complete project description, rendering the entire analysis inadequate. Without a complete project description, the environmental analysis under CEQA will be impermissibly narrow, thus minimizing the Project's impacts and undercutting public review.²²

CEQA places the burden of environmental investigation on the government rather than the public. Accordingly, a lead agency may not hide behind its failure to obtain a complete and accurate project description.²³ CEQA requires that the project description contained in a CEQA document that is circulated for public review contain sufficiently detailed information to permit a meaningful evaluation and review of the potential environmental impacts of a proposed project.²⁴ California courts have repeatedly held that "an accurate, stable and finite project

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Pub. Resources Code § 21064.5; MND, pp. 31-36.

²¹ See Owens' Comments.

²² See, e.g., *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376.

²³ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

²⁴ 14 Cal. Code Regs. § 15124 (hereafter "CEQA Guidelines").

description is the sine qua non of an informative and legally sufficient [CEQA document].²⁵ In contrast, an inaccurate or incomplete project description renders the analysis of environmental impacts inherently unreliable. Without a complete project description, the environmental analysis under CEQA will be impermissibly narrow, thus minimizing the project's impacts and undercutting public review.²⁶

A. The IS/MND Fails to Adequately Describe the New Turbines to Be Installed on the Project Site

The IS/MND only provides a potential maximum length and width for new turbines that can be installed, rather than what turbines are *actually* proposed to be installed, which makes any determination of impacts to birds and bats speculative at best.²⁷ Higher, wider wind turbine blades can lead to increased avian and mortality from the Project.²⁸ Without an adequate description of the width and height, in addition to the length, of the turbines, impacts to biological resources cannot be determined. Since the Project description is incomplete, the IS/MND fails as an informational document as required by CEQA.

IV. THE IS/MND FAILS TO ADEQUATELY ESTABLISH THE EXISTING ENVIRONMENTAL SETTING FOR BIOLOGICAL RESOURCES

The IS/MND describes the existing environmental setting for biological resources inaccurately and incompletely, thereby skewing the County's impact analysis. The existing environmental setting is the starting point from which the lead agency must measure whether a proposed Project may cause a significant environmental impact.²⁹ CEQA defines the environmental setting as the physical

²⁵ County of Inyo v. City of Los Angeles (3d Dist. 1977) 71 Cal.App.3d 185, 193.

²⁶ See, e.g., *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376.

²⁷ IS/MND, p. 2.; Owens' Comments, p. 2.

²⁸ Owens' Comments at pp. 2-3.

²⁹ See, e.g., *Communities for a Better Env't v. S. Coast Air Quality Mgmt. Dist.* (March 15, 2010) 48 Cal.4th 310, 316; *Fat v. City of Sacramento* (2002) 97 Cal.App.4th 1270, 1278, citing Remy, et al.; Guide to the Calif. Environmental Quality Act (1999) p. 165.

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environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, from both a local and regional perspective.³⁰

Describing the environmental setting accurately and completely for each environmental condition in the vicinity of the Project is critical to an accurate and meaningful evaluation of environmental impacts. The importance of having a stable, finite and fixed environmental setting for purposes of an environmental analysis was recognized decades ago.³¹ Today, the courts are clear that “[b]efore the impacts of a Project can be assessed and mitigation measures considered, an [EIR] must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined.”³²

An EIR must also describe the existing environmental setting in sufficient detail to enable a proper analysis of project impacts.³³ The CEQA Guidelines provide that “[k]nowledge of the regional setting is critical to the assessment of environmental impacts.”³⁴ This level of detail is necessary to “permit the significant effects of the project to be considered in the full environmental context.”³⁵

The IS/MND fails to accurately and adequately describe the environmental setting to enable the County to properly assess biological resources impacts from the Project. Decision makers cannot determine the Project’s impacts, and in turn, apply appropriate mitigation for those impacts, without an accurate description of the environmental setting. The County must gather the relevant data and revise the IS/MND to include an accurate and complete description of the existing environmental setting.

³⁰ CEQA Guidelines § 15125, subd. (a); *Riverwatch v. City of San Diego* (1999) 76 Cal.App.4th 1428, 1453.

³¹ *City of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185.

³² *City of Amador v. El Dorado City Water Agency* (1999) 76 Cal.App.4th 931, 952.

³³ *Galante Vineyards v. Monterey Peninsula Water Mgmt. Dist.* (1997) 60 Cal.App.4th 1109, 1121-22.

³⁴ CEQA Guidelines § 15125, subd.(d).

³⁵ *Id.*

A. The IS/MND Underestimates the Amount of Habitat the Project Will Disturb

The IS/MND states that the Project will only disturb 2.59 acres of land but does not support this claim.³⁶ Construction of new access roads and widening of existing access roads to accommodate the larger turbines and cranes, a new laydown yard, and new turbine pads will all disturb the site. Ms. Owens' estimate based on the information provided by the County and the Applicant suggests that the actual area of disturbed land may be closer to 20 acres.³⁷

First, several miles of access roads will be expanded from 8 or 16 feet wide to 36 feet wide, disturbing 4.36 acres per mile.³⁸ Second, new access roads will be constructed to towers 2, 3, 13, and 14.³⁹ Third, the laydown yard itself will disturb over 5 acres.⁴⁰ Fourth, the IS/MND uses an unreasonably conservative estimate for turbine construction zones.⁴¹ Finally, the IS/MND does not discuss the disturbance related to decommissioning of the existing 291 wind turbines.⁴²

The areas that will be disturbed are, or are surrounded by, native habitat that may be occupied by sensitive species.⁴³ While the IS/MND suggests that disturbed areas will be revegetated, the County never discloses the potentially significant impacts and the extent of the potentially significant impacts and fails to require any binding legal requirement for revegetation or other impacts, making potentially significant impacts undisclosed, unanalyzed and permanent.⁴⁴

Additionally, the IS/MND fails to address the Project's potentially significant indirect impacts to biological resources, such as indirect impacts to wildlife from noise, dust, or vehicles.⁴⁵

³⁶ Owens' Comments, p. 4.

³⁷ Owens' Comments, p. 6.

³⁸ Owens' Comments, p. 6.

³⁹ Owens' Comments, p. 6.

⁴⁰ Owens' Comments, p. 6.

⁴¹ Owens' Comments, p. 6.

⁴² Owens' Comments, p. 7.

⁴³ Owens' Comments, pp. 6-7.

⁴⁴ Owens' Comments, pp. 5-6; *see* below, Section VII.

⁴⁵ Owens' Comments, p. 7.

Overall, the County's failure to accurately describe the acreage that will be disturbed by the Project renders it impossible to analyze the Project's potentially significant impacts to biological resources, as required by CEQA. State law requires the County to prepare a revised environmental review document that accurately describes where and how the Project will disturb lands and any impacts resulting therefrom and to recirculate the document for public review and comment.

B. The IS/MND Fails to Describe the Existing Levels of Impacts to Avian Species on the Project Site

The IS/MND cursorily and summarily concludes that the replacement of 291 existing wind turbines with 14 new, larger wind turbines will lead to less impacts to birds.⁴⁶ As Ms. Owens notes, this claim is unsupported by the evidence, since larger wind turbine blades can lead to increased impacts.⁴⁷ Any actual determination as to whether there will be increased or decreased impacts to birds is impossible, however, since the County provided no data on avian mortality from the existing project. The County must revise its environmental review document to include actual data on existing avian mortality, studies that model existing avian mortality or some other valid substantial evidence for public review before the County can even consider concluding that the Project would result in no significant impacts to birds.

C. The IS/MND Fails to Adequately Survey and Describe Onsite Biological Resources

The IS/MND does not include any relevant, recent focused or protocol surveys for any sensitive species that have a moderate to high potential to occur on the Project site.⁴⁸ The only survey conducted was a general, one-day field study in March of 2018.⁴⁹

Ms. Owens found that at least 30 different plant and animal species, protected at both the state and federal level, could occur at the Project site and

⁴⁶ IS/MND, p. 35.

⁴⁷ Owens' Comments, pp. 2-3.

⁴⁸ Owens' Comments, p. 7.

⁴⁹ Owens' Comments, p. 7.

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must be assessed and disclosed in a revised environmental review document.⁵⁰ For example, the IS/MND completely omits any data on bats in the area and any discussion of the Project's potentially significant impacts to bats.⁵¹

By failing to require the necessary surveys, the County lacks substantial evidence to support its conclusions in the IS/MND. The County cannot possibly determine whether the Project would result any impacts to biological resources, much less determine whether those impacts are significant and what mitigation is required. The County must require the Applicant to conduct proper surveys and provide actual data on biological resources and must revise and recirculate the environmental review document to the public.

D. The IS/MND Relies on an Outdated and Improperly Conducted Survey for Golden Eagles

The abundance of research supports the claim that wind turbines can kill Golden Eagles, which are fully protected under California law.⁵² As a result, proper studies are needed to determine if the Project will lead to eagle mortality.

The County references a survey for Golden Eagles in the IS/MND, but the survey does not accurately inventory habitat and potential impacts to eagles for numerous reasons. The survey data is too old to represent current conditions for the Golden Eagle.⁵³ More recent data is needed since breeding status for a nest territory is based on whether it is being used in the current year.⁵⁴ All breeding sites in an area with eagles demonstrating pair bonding activities are deemed occupied.⁵⁵ A seven year old study cannot possibly determine whether breeding Golden Eagles are present at the proposed Project site; a focused study must be completed.⁵⁶

⁵⁰ Owens' Comments, p. 7-8.

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⁵² Fish and Game Code § 3511(b)(7).

⁵³ Owens' Comments, p. 8.

⁵⁴ Owens' Comments, p. 8.

⁵⁵ Owens' Comments, p. 9.

⁵⁶ Owens' Comments, pp. 8-9.

The IS/MND lacks any detail on Golden Eagle prey on or near the Project site.⁵⁷ Golden Eagle presence is highly correlated with prey abundance, further limiting the description of Golden Eagle habitat at the site.⁵⁸

The study referenced is too limited in scope to be adequate to assess the Project's potentially significant impacts. Admittedly, it does not provide complete coverage of the Project site.⁵⁹ Admittedly, it failed to follow the United States Fish and Wildlife Service Protocol Guidelines.⁶⁰

The survey provided is technically invalid, since the author of the study, Dave Bittner, was working without a California state permit since 2000.⁶¹ The memo notes that Mr. Bittner lied to probation officials, failed to provide required data to wildlife agencies, and accepted \$600,000 in payment from wind facilities developers.⁶² Mr. Bittner conducted an unpermitted helicopter study of eagle nests in 2011, which may be the study cited in the IS/MND.⁶³

Because the study cited in the IS/MND is too old to assess impacts to this species, invalid and lacks relevance, among other problems, the County's IS/MND lacks any evidence to support its description of existing Golden Eagle activity at or near the Project site. The County must revise and recirculate the document with accurate studies to determine whether Golden Eagle habitat is present at the Project site.

V. SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT MAY RESULT IN SIGNIFICANT IMPACTS THAT REQUIRE THE COUNTY TO PREPARE AN EIR

Under CEQA, a lead agency must prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a

⁵⁷ Owens' Comments, p. 9.

⁵⁸ Owens' Comments, p. 9.

⁵⁹ Owens' Comments, p. 10.

⁶⁰ Owens' Comments, p. 10.

⁶¹ East County Magazine, Eagle Expert Bittner Sentenced to Probation, Ordered to Turn Over Missing Data (Aug. 2013) available at <https://www.eastcountymagazine.org/eagle-expert-bittner-sentenced-probation-ordered-turn-over-missing-data>.

⁶² *Id.*

⁶³ *Id.*

project may have a significant effect on the environment.⁶⁴ The fair argument standard creates a “low threshold” favoring environmental review through an EIR, rather than through issuance of a negative declaration.⁶⁵ An agency’s decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.⁶⁶ Substantial evidence can be provided by technical experts or members of the public.⁶⁷ “If a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect.”⁶⁸

A. The IS/MND Incorrectly Assumes No Potentially Significant Impacts to Birds and Bats from Taller Wind Turbines

As stated above, the County in the IS/MND fails to describe the existing environmental setting for avian and bat mortality. Instead, the County concludes, without any evidence, that a smaller number of turbines means less impacts. Ms. Owens explains that the County’s statement is unsupported and incorrect since other repowering projects have resulted in increased impacts to species.⁶⁹

Although the IS/MND does not provide substantial evidence to support its claim, Ms. Owens provides substantial evidence based on data and her expert opinion that the Project’s impacts from avian and bat mortality may be significant.

⁶⁴ Pub. Resources Code § 21082.2; CEQA Guidelines § 15064(f), (h); *Laurel Heights II*, *supra*, 6 Cal. 4th at p. 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical*, *supra*, 29 Cal.App.4th at pp. 1601-1602.

⁶⁵ *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.

⁶⁶ *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; *see also Friends of B Street*, *supra*, 106 Cal.App.3d at p. 1002 (“If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an [environmental impact report] and adopt a negative declaration, because it could be ‘fairly argued’ that the project might have a significant environmental impact”).

⁶⁷ *See, e.g., Citizens for Responsible and Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1340 (substantial evidence regarding noise impacts included public comments at hearings that selected air conditioners are very noisy); *see also Architectural Heritage Assn. v. County of Monterey*, 122 Cal.App.4th 1095, 1117-1118 (substantial evidence regarding impacts to historic resource included fact-based testimony of qualified speakers at the public hearing); *Gabric v. City of Rancho Palos Verdes* (1977) 73 Cal.App.3d 183, 199.

⁶⁸ CEQA Guidelines § 15062(f).

⁶⁹ Owens’ Comments, p. 2.

There is an increase in mortality with an increase in wind turbine hub heights.⁷⁰ Many raptors prefer higher flight paths between 300-600 feet, which would be above the height of the existing wind turbines, but directly in the range of the proposed Project's wind turbines.⁷¹

Bat mortality can also vary greatly depending on which species are present because of differences in foraging and migrating.⁷² The County cannot support its claim in the IS/MND that there will not be any impacts to bats, since the County never analyzed any bat species which could occur near the Project.

The County in the IS/MND fails to provide the public with accurate information regarding the scope and severity of the Project's potentially significant impacts from avian and bat mortality. The County must provide analysis supported by substantial evidence and must recirculate the revised analysis to disclose, analyze and mitigate these potentially significant impacts.

B. The IS/MND Fails to Adequately Disclose, Analyze and Mitigate the Project's Potentially Significant Impacts to Sensitive Species

The County lacks any data to support its claims in the IS/MND that the Project will not impact sensitive species that may occur at or near the Project site, since the County never actually analyzed whether those species may exist on the Project site or impacted area. Instead, the County only suggests that the Project would be consistent with the Coachella Valley Multiple Species Habitat Conservation Plan ("CVMSHCP"), which was not developed to be used as a site-specific document at the project level.⁷³

Ms. Owens notes that a Biological Technical Report is normally provided with an environmental review document, prepared pursuant to CEQA, since the environmental review document is required to contain detailed analyses of species that may occur and a baseline from which to determine a Project's potentially

⁷⁰ Owens' Comments, p. 2.

⁷¹ Owens' Comments, p. 3.

⁷² Owens' Comments, p. 3.

⁷³ Owens' Comments, p. 12.