

Comment Letter FF

Hand Delivered



December 23, 2011

Mr. Carl Stiehl
County of San Diego
5201 Ruffin Road, Suite B
San Diego, CA 92123-1666

Re: Draft Wind Energy Zoning Ordinance and General Plan Amendment

Dear Mr. Stiehl:

Thank you once again for the opportunity to voice our thoughts on the draft EIR for the County's wind energy zoning ordinance. We are pleased to see the ordinance moving forward, and look forward to the County's supporting further wind development permit streamlining here in San Diego County.

We also appreciate that the County has seen fit to include many of our previously proposed changes to the wind power ordinance. Nonetheless, we would like to see additional changes, especially with regard to ambiguous wording regarding administrative findings, noise studies, and clarification of the equipment specification requirements. Our specific comments are as follows:

1. Equipment Specification Requirements: The draft ordinance includes a requirement to specify the turbine models at the application stage in Section 6952(h). This requirement is not feasible and quite frankly, unreasonable, given the fact that many project details, including the turbine model, often change during the course of permit processing. In fact, County comments on project submittals may be the driving force behind such changes. How can a project proponent do detailed technical studies when it cannot always be known what technology will be employed? A mechanism for incorporating change should be considered.

FF-1

FF-2

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San Diego, California 92108

2. Noise Study Requirements: We continue to have concerns regarding noise level requirements specific to wind turbine systems. While we are sensitive to the issue of noise pollution occurring on neighboring properties, we feel that it is unreasonable to require noise studies, which are very expensive, at locations beyond the property line of the parcel where such a system is to be installed. Given the rural nature of many of the communities where property owners are installing such wind turbine systems, requiring noise studies at the nearest non-participating residence could easily be cost prohibitive. In many cases, the nearest non-participating residence could be miles away and have little chance of being affected by noise pollution.

FF-3

More to the point, it is not clear what the basis is for the sound regulations being proposed, that is, why not use existing standards, such as the American National Standards Institute (ANSI) or specific octave-band criteria developed in other states. We have heard wind turbine operation ourselves, and do not find the noise annoying, and certainly not unhealthful. In other words, the beholder may influence the perception of negative environmental impact. We believe the Iberdrola comments deserve serious consideration, as they offer a great deal of real world experience to consider. The County needs to resist the temptation to overreach to appease critics and over-regulate a noise source that is generally quieter than ambient conditions.

FF-4

FF-5

3. Alternative Wind System Designs: We also continue to have concerns regarding the use of alternative wind systems, such as vertical axis wind turbines. While we fully support the development and installation of all renewable energy systems, we do not feel it is the place of this County ordinance to pick and choose the technological “winners”. For example, while it may seem otherwise, using vertical turbines may not substantially reduce impacts to avian and bat species. Some stakeholders have cited the risk of system failure in traditional wind turbines as a reason to explore newer alternative technologies. We would posit that new and untested technologies would actually pose a greater risk to adjacent property owners. As such, we caution the County against including language in the ordinance that would lead to the unintended consequence of encouraging the use of untested and potentially hazardous alternative technologies, and instead facilitate the safest operating practices.

FF-6

4. Setbacks: While we understand and acknowledge concerns regarding setback requirements for all wind turbine systems, there are comments from other stakeholders encouraging wider, more restrictive setback requirements. In some cases, some have recommended 1-2 mile setbacks, a position we could never support, and which if enacted would doom future wind energy projects. The number of properties in San Diego County that could otherwise be viable locations for wind turbine systems would be drastically reduced by such a large setback requirement. We recommend keeping the current setback requirements as written.

FF-7

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5. Lot size requirements: As currently written, a large turbine system could be allowed on lots as small as 5 acres. We support this position and would caution the County against requiring that large turbine systems be placed on larger lots. Instead, utilize the set back requirements to ensure better planning. We feel it is the intent of some stakeholders to reduce the number of properties in San Diego County that are adequate for large wind turbine systems. It is our position that the current lot size requirement in conjunction with the sundry other requirements made in the ordinance sufficiently protects the public from any negative impacts associated with a large wind turbine system. Many property owners in the better wind resource areas like Boulevard were heavily downzoned in the recent General Plan Amendment and the County would be doing the right thing to provide property owners with a reasonable path to a permit to generate electricity and thus, some income.

FF-8

6. Adverse Health Impacts: There have been a number of studies conducted by internationally acknowledged organizations such as the American Wind Energy Association that have demonstrated that wind turbines create no adverse health impacts. While some stakeholders would like to turn the discussion on the wind ordinance into a referendum on these studies, we feel that it is not productive to because the noise study requirements already included in the wind ordinance are more than sufficient to protect the public at large from any adverse effects. Furthermore, the setback requirements for all system sizes are more than sufficient to eliminate the possibility of such systems being sited close to human residences.

FF-9

7. Conservation Planning: The County should clarify in Section 1.6 that it considered the MSCP East County plan as well as the other MSCP Subregional Plan areas. MSCP East has a draft Conservation Strategy against which the County can compare proposed project impacts. We recommend that the County also work with the U.S. Army Corps of Engineers to develop a Renewable Energy Projects Regional General Permit and with the California Department of Fish and Game to obtain Master Streambed Alteration Agreement companion streamlined permits for this Ordinance. Please note that there is no such regulating vehicle as the "Southern California Coastal Sage Scrub NCCP". The only comparable that comes to mind is the federal ESA 4(d) rule promulgated to regulate interim loss of CSS in NCCP Plan areas. Also, in section 2.4.4.4, page 2.4-42, note that the NCCP program is not mandatory, it is voluntary. If the County were to complete the MSCP East, it would not be necessary to implement a more comprehensive plan covering all of Southern California (pg. 2.4-41). Should the County decide a larger scale program is needed, either the MSCP East and North could be completed, and the Desert Renewable Energy Conservation Program could be used to link San Diego with other renewable energy production areas. The Fully Protected Species Act should be capitalized throughout Section 2.4. It is cited in the Golden Eagle and Big Horn Sheep text and should be depicted as the law it is.

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FF-15

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Draft Responses to Comments

We look forward to continuing to work with you and your staff on both the wind and solar power ordinances and greatly appreciate the opportunity to comment.

FF-16

Sincerely,



James E. Whalen
Executive Director

Cc: San Diego County Board of Supervisors
Members of ECRC

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Response to Comment Letter FF

East County Renewables Coalition

James E. Whalen

December 23, 2011

- FF-1** This comment is introductory in nature and does not raise a significant environmental issue for which a response is required.
- FF-2** The County of San Diego acknowledges and appreciates this comment. As the impacts of a proposed project may vary between various turbine models and manufacturers, it is important that the County obtain and analyze all turbine models contemplated for a project. The proposed ordinance has been revised to clarify that an applicant may specify multiple turbines models in their application in order to facilitate a complete impact analysis for all turbine models contemplated for the project.
- FF-3** The County does not agree with this comment, which does not raise a significant environmental issue pursuant to CEQA. The County is concerned about potential adverse effects on sensitive receptors near future large wind turbine sites. The County does not agree that noise studies evaluating effects to the nearest non-participating residence would be infeasible for applicants.
- FF-4** This comment does not raise a significant environmental issue for which a response is required. The County also wishes to point out that there is no universally accepted method for regulating low frequency noise. While some jurisdictions establish what is referred to as a “maximum threshold” standard when regulating low frequency noise, the County is proposing what is commonly referred to as an “imbalance” standard. Both the maximum threshold and imbalance threshold method are currently utilized throughout the United States and internationally to regulate noise and are accepted methods for regulating low frequent noise. The County selected the imbalance method because it pays respect to the ambient background conditions found in our County's rural environment. Ultimately, the Board of Supervisors must determine how the County can best meet its objectives. The information in this comment will be in the Final EIR for review and consideration by the County Board of Supervisors.
- FF-5** The County appreciates this information and does not agree or disagree with the commenter. However, based on evidence that low frequency noise can have significant adverse effects, the issue is evaluated in the DEIR and limitations are proposed in the draft ordinance. County staff has also given thorough consideration to comments received from Iberdrola (see responses to Letter N) and will ensure such comments are presented to the decision makers for this project.

Draft Responses to Comments

- FF-6** The draft ordinance does not encourage the use of vertical axis wind turbines or, to staff's knowledge, untested technologies. However, County staff will keep this information in mind if project changes are proposed.
- FF-7** The County acknowledges this comment, which does not raise a significant environmental issue relative to the DEIR.
- FF-8** The County acknowledges this comment, which does not raise a significant environmental issue relative to the DEIR.
- FF-9** The County acknowledges this comment, which does not raise a significant environmental issue relative to the DEIR.
- FF-10** The County has made the recommended change and added the future East County MSCP to the list of applicable regional plans considered.
- FF-11** Although the County does not consider the proposed project to be a nexus to require a Regional General Permit or Master Streambed Alteration Agreement, such efforts are certainly not precluded at this time. The County is open to further discussion on this subject depending on need and cost/benefit analyses.
- FF-12** The County concurs with this comment.
- FF-13** The County agrees with this comment and deleted the phrase "such as the California NCCP Act" from the section referenced in this comment.
- FF-14** For this project, the DEIR concludes that the cumulative study area for biological habitat impacts is the southern California region. The cumulative study area might be different under the circumstances discussed in this comment; however, such a discussion is too speculative to include in the DEIR.
- FF-15** The County agrees with this comment and has made the recommended revision.