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A. Environmental Review

On January 15, 2016, the County of Alameda Planning Department, as lead agency, certified a Final Environmental Impact Report (FEIR)) (State Clearinghouse (SCH) No. 2010082063) for the Project and filed a Notice of Determination (NOD) at the SCH on March 3, 2016. The State Water Board is a responsible agency under CEQA (Pub. Resources Code, § 21069) and in making its determinations and findings, must presume that County of Alameda Planning Department's certified environmental document comports with the requirements of CEQA and is valid. (Pub. Resources Code, § 21167.3). The State Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by County of Alameda Planning Department addresses the Project's water resource impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (f).). The environmental document includes the Mitigation Monitoring And Reporting Program (MMRP) developed by County of Alameda Planning Department for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Pub. Resources Code, § 21081.6, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (d).)

B. Incorporation by Reference

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project FEIR, the application for this Order, and other supplemental documentation

The Final Program Environmental Impact Report (FPEIR), which includes analyses of broad impacts and serves as a first tier document for the FEIR, is available at: http://www.acgov.org/cda/planning/landuseprojects/documents/apwra/Complete_Final_Program_EIR.pdf

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project FEIR¹ which is incorporated herein by reference. The Project FEIR is available at:

https://www.acgov.org/cda/planning/landuseprojects/documents/COMBINED_COVER_IN_TRO_CHKLIST.pdf

Requirements under the purview of the State Water Board in the MMRP are incorporated herein by reference.

The Permittee's application for this Order, including all supplemental information provided, is incorporated herein by reference.

C. Findings

The FEIR describes the potential significant environmental effects to water resources. Having considered the whole of the record, including comments received during the public review process, the State Water Board makes the following findings:

1. Findings regarding impacts that will be mitigated to a less than significant level. (Pub. Resources Code, § 21081, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (a)(1).)

¹ The second tier environmental document was provided by the lead agency to serve as the project-level CEQA document (Altamont Winds LLC. *Summit Wind Repowering Project CEQA Implementation Checklist and Application Supporting Materials* (Nov. 3, 2015).

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

a.i. Potential Significant Impact BIO-1:

Project activities have the potential to result in adverse effects on special-status plants or habitat occupied by special-status plants.

a.ii. Facts in Support of Finding:

Mitigation measures BIO-1a through Bio-1e are likely to be sufficient to reduce these potential impacts to a level that is less than significant:

- MM-BIO-1a: Conduct surveys for special-status plant species. This measure requires surveys for the special-status plant species within and adjacent to all project sites. All surveys will be conducted by qualified biologists in accordance with protocols established by the trustee agency (Department of Fish and Wildlife, or DFW) and by the US Fish and Wildlife Service (USFWS).
- MM-BIO-1b: Implement best management practices to avoid and minimize impacts on special-status species. Requires the Permittee to follow Best Management Practices (BMPs) relating to protection of special-status plants and their habitats, in accordance with practices established in the East Alameda County Conservation Strategy (EACCS), and that these BMPs will be incorporated into individual project design and construction documents.
- MM-BIO-1c: Avoid and minimize impacts on special-status plant species by establishing activity exclusion zones. This measure avoids and minimizes impacts on special-status plant species by establishing activity exclusion zones determined through consultation with a qualified biologist and through concurrence with CDFW.
- MM-BIO-1d: Compensate for impacts on special-status plant species. Compensation is required for unavoidable impacts on special-status plant species that cannot be mitigated on-site. Where avoidance of impacts on a special-status plant species is infeasible, loss of individuals or occupied habitat of a special-status plant species occurrence will be compensated for through the acquisition, protection, and subsequent management in perpetuity of other existing occurrences.
- MM-BIO-1e: Retain a biological monitor during activities in environmentally sensitive areas. All project proponents will retain a qualified biologist (as determined by Alameda County) to conduct periodic monitoring of decommissioning, repowering, and reclamation activities that occur adjacent to sensitive biological resources (e.g., special-status species, sensitive vegetation communities, wetlands). Monitoring will occur during initial ground disturbance where sensitive biological resources are present and weekly thereafter or as determined by the County in coordination with a qualified biologist. The biologist will assist the crew, as needed, to comply with all Project implementation restrictions and guidelines. In addition, the biologist will be responsible for ensuring that the project proponent or its contractors maintain exclusion areas adjacent to sensitive biological resources, and for documenting compliance with all biological resources– related mitigation measures.

These measures are widely accepted as being adequate and effective when implemented. Similar measures have been implemented statewide to reduce impacts from comparable activities to a level that is less than significant.

b.i. Potential Significant Impact BIO-2:

Based on findings of the Habitat Assessment and the FPEIR, potentially adverse effects on special-status plants and natural communities may result from the introduction and spread of invasive plant species.

b.ii. Facts in Support of Finding:

These effects will be reduced to a level that is less than significant with implementation of various mitigation measures. In addition to BIO-1b, discussed above, measures BIO-2, BIO-1b, BIO-5c, and WQ-1, are presented in the FPEIR:

- MM-BIO-2: Prevent introduction, spread, and establishment of invasive plant species. Measure BIO-2 would prevent introduction, spread and establishment of invasive plants by through implementation of multiple BMPs including the establishment of cleaning stations for vehicles and machinery to prevent the spread of invasive species to the Project site and all seed mixtures and straw used within naturally vegetated areas will be site appropriate.
- BIO-5c: Restore disturbed annual grasslands. This measure would prevent the spread of non-native plant species by restoring native grasslands; and requires that within 30 days prior to any ground disturbance, a qualified biologist will prepare a Grassland Restoration Plan in coordination with CDFW and subject to CDFW approval, to ensure that temporarily disturbed annual grasslands and areas planned for the removal of permanent roads and turbine pad areas are restored to pre-project conditions.
- WQ-1: Comply with NPDES requirements. Measure WQ-1 requires compliance with NPDES requirements; specifically, Construction General Permit Order 2009-0009-DWQ. These requirements include extensive and specific goals and objectives pertaining to soil protection, erosion protection and revegetation of temporary impacts in all project areas, including invasive plant management measures.

These measures are widely accepted as being adequate and effective when implemented. Similar measures have been implemented statewide to reduce impacts due to introduction or spread of invasive plants to a level that is to less than significant.

c.i. Potential Significant Impact BIO-3:

Project activities have the potential to cause mortality of or loss of habitat for vernal pool branchiopods and curved-footed hygrotus diving beetle.

c.ii. Facts in Support of Finding:

These effects will be reduced to a level that is less than significant with implementation of the following mitigation measures:

- MM-BIO-3a: Conduct pre-construction surveys for habitat for special-status wildlife species. Project area surveys, conducted by a qualified biologist with protocols established by the DFW and USFWS provides the information needed for appropriate demarcation of species habitat and prevents intrusion into potential habitat areas.

- MM-BIO-3b: Implement measures to avoid, minimize, and mitigate impacts on vernal pool branchiopods and curved-footed hygrotus diving beetle. By avoiding and minimizing impacts to areas identified as suitable habitat species impacts are reduced. This measure includes complete avoidance of direct impacts on sandstone rock outcrops; avoids ground disturbance from the first significant rain event until pools are dry for at least 72 hours; prohibits broadcast herbicide applications; and boring methods.

These measures are widely accepted as being adequate and effective when implemented. Similar measures have been implemented statewide to reduce impacts due to introduction or spread of invasive plants to a level that is to less than significant.

d.i. Potential Significant Impact BIO-4:

Project activities have the potential to cause disturbance or mortality of and loss of suitable habitat for valley elderberry longhorn beetle.

d.ii. Facts in Support of Finding:

These effects will be reduced to a level that is less than significant through implementation of Mitigation Measures BIO-1b, BIO-1e, BIO-3a, (as described above) and BIO-4a: avoid or protect habitat for valley elderberry longhorn beetle. This measure avoids removal of elderberry shrubs; protects and demarcates shrubs and clusters within 100 feet of construction area; require USFWS approval of buffer areas and biological inspection report submission to USFWS. In addition, MM-BIO-4b requires compensation for direct and indirect elderberry impacts, as necessary.

These measures are widely accepted as being adequate and effective when implemented. Similar measures have been implemented statewide to reduce impacts due to introduction or spread of invasive plants to a level that is to less than significant.

e.i. Potential Significant Impact BIO-5: Project activities have the potential to cause disturbance or mortality of and loss of suitable habitat for California tiger salamander, western spadefoot, California red-legged frog, and foothill yellow-legged frog.

e.ii. Facts in Support of Finding:

In addition to Mitigation Measure BIO-1b, BIO-1e, BIO-3a, (as described above) the following Mitigation Measures will reduce impacts to a level that is less than significant:

- MM-BIO-5a: Implements BMPs to avoid and minimize effects on special-status amphibians, including:
 - Limiting activities to dry weather between April 15 and October 31. No ground-disturbing work will occur during wet weather.
 - Where applicable, barrier fencing will be installed around the worksite to prevent amphibians from entering the work area. Barrier fencing will be removed within 72 hours of completion of work.
 - Trenches or holes more than 6 inches deep will be provided with one or more escape ramps constructed of earth fill or wooden planks and will be inspected by a qualified biologist prior to being filled. Any such features that are left open overnight will be searched each day prior to construction activities to ensure no covered species are trapped. Work will not continue until trapped animals have moved out of open trenches.
 - Before construction begins, a qualified biologist will locate appropriate relocation areas and prepare a relocation plan for special-status amphibians

that may need to be moved during construction. The proponent will submit this plan to USFWS and CDFW for approval a minimum of 2 weeks prior to the start of construction.

- BIO-5b: Compensate for loss of habitat for special-status amphibians. Where impacts to habitat for special-status amphibians are not completely avoided or minimized, compensatory mitigation will be required as determined by CDFW and/or USFWS.
- BIO-5c: Restore disturbed annual grasslands. Restoration of disturbed areas, according to a plan approved by CDFW and/or USFWS will prevent long-term species impacts that would result if disturbed areas were not restored to according to restoration plan requirements; as outlined in the FEIR.

These measures are widely accepted as being adequate and effective when implemented. Similar measures have been implemented statewide to reduce impacts due to introduction or spread of invasive plants to a level that is to less than significant.

f.i. Potential Significant Impact BIO-6:

Project activities have the potential to cause disturbance or mortality of and loss of suitable habitat for western pond turtle.

f.ii. Facts in Support of Finding:

Mitigation Measures BIO-1b; BIO-1e; BIO-3a (as described above) and MM-BIO-6: Conduct preconstruction surveys for western pond turtle and monitor construction activities if turtles are observed; which requires that surveys are to be completed by a qualified biologist according to USFWS and/or CDFW standards, reduce impacts to a level that is less than significant.

g.i. Impact WQ-1:

Project activities have the potential to violate water quality standards and/or waste discharge requirements.

g.ii. Facts in Support of Finding:

Mitigation Measure WQ-1 (as described above) will minimize the potential erosion related and sediment related impacts to a level that is less than significant.

D. Determination

The State Water Board has determined that the Project, when implemented in accordance with the MMRP and the conditions in this Order, will not result in any significant adverse water quality or supply impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (h).) The State Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (Cal. Code Regs., tit. 14, §§ 15096, subd. (i).)