

Questions & Answers

Understanding the Settlement Agreement, the Altamont Scientific Review Committee (SRC), and the Conditional Use Permits

Developed by the Center for Collaborative Policy and County of Alameda Planning Department

What is the role of the SRC?

The existing SRC charter states: “The purpose of the Scientific Review Committee is to provide independent review and expertise on research and study related to wind energy production and avian behavior and safety. The SRC will be the primary body seeking consensus on the best methods and tools to improve scientific understanding in Altamont Pass. The SRC will be a consensus-seeking body that forwards its recommendations to the Alameda County Planning Director. “

Has the role of the SRC changed under the Settlement Agreement?

The County envisions that the SRC will continue functioning in the same manner that it has been functioning as described above. There is a range of perspectives within the SRC on whether and how the settlement alters the SRC’s role, and the SRC is seeking clarification on settlement wording and intent.

Conditional Use Permit Exhibit G-1 for the Settling Parties states:

“Throughout all the years of the avian wildlife protection program, the Scientific Review Committee shall investigate, monitor, and evaluate the effectiveness of the program, using input from the Permittee(s), the County consultant and state-sponsored research, and subsequently recommend adjustments, and design and implementation of alternative strategies in accordance with the conditions set forth in Exhibit G-1.”

The SRC is continuing to discuss the implications of the Settlement Agreement. One issue is a term in the settlement that would allow settling parties, should the scaling factor for searcher efficiency and scavenging exceed 2.5, to re-determine in consultation with the SRC and others a mutually acceptable baseline.

Does the Settlement Agreement specify certain tasks for the SRC?

The settlement agreement stipulates particular functions that the SRC will fulfill.

Specifically:

- The SRC will approve the scaling factors put forth in the settlement. If the scaling factors exceed 2.5, the parties shall meet and confer and consult with the SRC to re-determine a mutually acceptable baseline.
- The SRC prioritizes measures under the adaptive management program if the desired 50% reduction is not achieved.
- The SRC will review and make recommendations to the County on the Adaptive Management Plan if desired 50% reduction is not achieved.
- The Companies may petition the SRC for adjustment in which turbines are considered Tier 1 and Tier 2. The Companies may petition the SRC for adjustment of what is considered Tier 3 (scheduled for removal by Oct. 31, 2008). The Companies

may petition the SRC for credit for Tiers 1 and 2 for turbines removed previously. The SRC will decide if it agrees and make a recommendation to the County.

- The SRC will approve the study design and turbine selection for the blade painting, or specify changes necessary for approval, within 30 days of submittal by the parties.

How will the Settlement Agreement affect the avian monitoring program?

- The Settlement Agreement raises the mortality reduction goal from 45 to 50%. This will not change the study sample size of 2500 turbines, a size that will allow for results with a scientifically credible margin of error of $\pm 10\%$. However, this sample size is subject to change depending on settling parties' answers to a list of SRC questions seeking clarification. The SRC has notified settling parties that the margin of error means that a measured 50% decline may actually range from 40% to 60%.
- Some of the provisions of the Settlement Agreement, such as the blade painting study, may require additional studies peripheral to the monitoring program to avoid confounding monitoring results. If the monitoring program includes too many mortality reduction strategies, it may fail to provide conclusive data on each strategy's effectiveness. The SRC will decide whether the additional studies will be peripheral to the core monitoring program or integrated into it. The Settlement states that the 50% decline in mortality is measured from the baseline number established in the settlement. That baseline number was for all raptors, not the four target species. The Parties have indicated that the SRC may use the more accurate number of 1130 fatalities per year for the four target species. The SRC has taken it under advisement that the Settlement Parties will look to the SRC to evaluate some aspects of the settlement agreement, such as baseline mortality. The SRC may need to recalculate the baseline mortality used in the Settlement to make accurate data comparisons and intends to report the most accurate estimates of percent reduction based on comparable methodologies.

How will the SRC be involved in deciding if turbines are exempted from the shutdown if the turbines become part of the blade painting?

Turbines are only exempted from shutdown if the SRC approves a scientifically designed study for blade painting. The SRC can decide not to approve such a study or could restrict it to non-risky turbines. Turbines that are subject to an SRC approved blade painting study are exempt from shutdown requirements during the term of the study and could decrease the sample size of the shutdown experiment to the extent that the ability to detect a change in mortality level is reduced. All aspects of the study are subject to SRC approval.

What is the relationship between the Settlement Agreement and the Conditional Use Permits?

The Settlement Agreement has stipulated some changes in the Conditional Use Permits. These are most clearly identified in Exhibit G-1, which specifies agreements related to removing certain turbines under tiered classification, seasonal shutdown, and potential blade painting. If the 50% reduction is not reached by year 3, the SRC can recommend to the County additional management strategies, called adaptive management measures, which the County would stipulate that the companies carry out to meet the 50% reduction.

How does the proposed Natural Communities Conservation Plan (NCCP) affect the Conditional Use Permits, and what role would the SRC play in it?

If the County, CDFG, and the settling parties can agree to a NCCP or similar agreement, management strategies and overall management of the Altamont Pass Wind Resource Area may be altered at that time so as to affect the terms of the amended Conditional Use Permits. However, if the parties are unable to reach agreement on a NCCP, the parties will adhere to the amended Conditional Use Permits, including the programmatic schedule stipulated in Exhibits G-1 and G-2. The role of the SRC in the NCCP will be determined by the California Department of Fish & Game. The utility of a NCCP as a tool to achieve 50% reduction in mortality through repowering is unclear to the SRC. In addition, the process to develop and approve a NCCP is likely beyond the required timeframe for mortality reduction specified in the Settlement Agreement.

How has the seasonal shutdown changed under the Settlement Agreement?

Seasonal shutdown requirements remain in accordance with the existing permits except for the year 2007-8 when shutdown is 2 months instead of 2.5 months for settling parties subject to Exhibit G-1. Seasonal shutdowns can be replaced by the NCCP, but only if the NCCP is approved by the County, CDFG, and all settling parties. Otherwise, the schedule remains the same. The SRC might make recommendations on the duration of future winter-time shutdowns as potential mitigation measures.

Will there be an EIR under the Settlement Agreement?

Yes, and it will be prepared in conjunction with the NCCP process. If there is no NCCP, the wind companies are still subject to the 50% reduction requirement, and the EIR will be prepared under the September 2005 Conditional Use Permits.

What is the difference between the Settling and Non-Settling Parties under the permits?

- The settlement affects individual turbines owned only by the settling companies. Turbines that are owned in part or in whole by a non-settling party operate under the existing permit: 3,344 of more than 4,000 turbines in the APWRA are expected to be affected by the settlement. 920 turbines are not subject to the settlement.
- 900 of these 920 turbines are controlled by a central computer operated by AIC.
- All companies are already obligated to take out the 46 Tier 1 turbines identified by Smallwood and Spiegel June 2005, except that settling parties may receive credit for turbines removed since May 2002. This will not change for settling or non-settling companies.
- The settling companies are obligated to take out 69 Tier 2 turbines identified by Smallwood and Spiegel June 2005 within 30 days (subject to credits for previous removals/relocations); the non-settling party is obligated to take out 25% of an estimated total of 16 turbines that they own each year for four years.
- The settling parties are obligated to remove Tier 3 turbines; the non-settling party is not.