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Subject: Final Comments by Dr. Klem and Jim Cubie
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Attachments: [California Comments final.docx](#)

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The comments I sent you the other day were a draft. Two changes. First, this version is approved by Dr. Klem, the nation's leading expert on bird window collisions. Second, I address the "90% of 40ft" in more detail. I had assumed that it was only for the retail sector. In looking at other states, it appears that it is added for "flexibility." The effect is to increase bird mortality by 1.7 million birds.

Our recommendation is that this voluntary code be approved provided there is a commitment from the Commission that it will be strengthened before it becomes mandatory.

California, the national leader on conservation, should not adopt such a weak bird protection standard.

We took this provision, instead of opposition, to be constructive. I wish that the whole process would stop and start over.

We understand that your hands were tied when it was recommended to you to start at 40'. We compliment you in the comments. I do not know why they would pick such a low level. I also know well how strong the building industry is, and their very expensive lawyers and consultants had to prove they deserved their fees. Thus the further weakening of a very minimal standard with the "90% of 40 ft." exemption.

If there is any way I can help in the future, please let me know.