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# *Technical Memorandum*

Reference: 524003.300  
Date: May 22, 2025  
To: Adam Fieseler, Assistant Director  
Shasta County Department of Resource Management  
From: Ethan "Red Eagle" Lawton, Tribal Liaison  
**Subject: Evaluation of CEC's Staff Assessment for the Fountain Wind Energy Project – Tribal Cultural Resource Impacts**

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## **Introduction**

At the request of the Shasta County Department of Resource Management (County), SHN Consulting Engineers and Geologists (SHN) has provided a preliminary evaluation of Tribal Cultural Resources docketed by the California Energy Commission (CEC) for the Fountain Wind Energy Project (proposed project). The purpose of this evaluation is to provide comments on the adequacy of Tribal Cultural Resource impacts and determinations presented in CEC's Fountain Wind Project Staff Assessment, dated March 25, 2025 (TN# 262350).

## **Project Description**

The proposed project is a wind energy generation development proposed by Fountain Wind LLC (applicant) in unincorporated Shasta County. The proposed project is located approximately 1 mile west of the existing Hatchet Ridge Wind Project, 6 miles west of Burney, 35 miles northeast of Redding, and immediately north and south of State Route 299. The proposed project would be located entirely on private property, managed for timber production and harvesting, where public access is currently restricted. The project area includes thirty-seven parcels in which the project components will be sited and encompasses approximately 16,108 acres. The proposed project site boundary encompasses approximately 2,855 acres within the overall project area.

The proposed project entails the construction and operation of up to 48 wind turbines. Associated development would include construction of underground and overhead collection lines, access roads, maintenance facilities, evaluation towers, batch plants, substations, a relay microwave tower, and an operations and maintenance (O&M) facility.



## **CEQA Requirements**

The California Environmental Quality Act (CEQA) applies to "discretionary projects proposed to be approved or carried out by public agencies." (Pub. Res. Code Section 21080(a)). The term "project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. This includes the direct physical impact of mitigation measures (State CEQA Guidelines Section 15378(a),(c)–(d)). This definition ensures that the action reviewed under CEQA is the development or other activities that will result from the approval. A "project" has two essential elements. First, it is an activity that may cause a direct (or reasonably foreseeable indirect) physical environmental change. Second, it is an activity directly undertaken by a public agency, an activity supported in whole or in part by a public agency, or an activity involving the issuance by a public agency of some form of entitlement, permit, or other authorization. (Cal. Pub. Res. Code Section 21065). CEQA requires the CEC to evaluate and disclose the environmental impacts of the proposed Fountain Wind Energy Project and to reduce those impacts to the extent feasible.

## **The CEC's Evaluation of Tribal Cultural Resource Impacts Fails to Comply with CEQA**

At the request of the Shasta County Department of Resource Management (County), SHN Consulting Engineers and Geologists (SHN) has provided a preliminary evaluation of Tribal Cultural Resources docketed by the California Energy Commission (CEC) for the Fountain Wind Energy Project (proposed project). The purpose of this evaluation is to provide comments on the adequacy of Tribal Cultural Resource impacts and determinations presented in CEC's Fountain Wind Project Staff Assessment, dated March 25, 2025 (TN# 262350).

Within Section 5.4 (Cultural and Tribal Cultural Resources) of the CEC's Fountain Wind Project Staff Assessment (CEC 2025) there are several unresolved issues regarding Tribal Consultation, Tribal Cultural Resources, TCR Impacts, TCR Mitigation Measures, TCR Cross-Sections, and other minor discrepancies.

## **TRIBAL CONSULTATION**

The "CEC staff began its review of the application without formal tribal consultation requirements under CEQA with respect to these Tribes" by stating that there was "no prior



requests for CEQA consultation from any Tribes affiliated with the project vicinity" (CEC 2025, page 5.4-24). This implies that the CEC claims the proposed project may not be subject to Assembly Bill 52 (AB 52, Gatto, Chapter 532, Statutes of 2014) requirements ("AB 52").

However, the CEC, in association with AB 52 requirements recognizes the "California Native American Tribal sovereignty (CEC 2024, page 2) and the "Native American's knowledge of Tribal Cultural Resources" (CEC 2024, page 2) and that "CEQA requires Tribal consultation for discretionary actions" (CEC 2024, page 6). The "CEC recognizes the importance of government-to-government engagement with California Native American Tribes" (CEC 2024, page 11) and states that the "CEC leadership is available for government-to-government consultation meetings, as appropriate" (CEC 2024, page 5).

Additionally, the CEC is still subject to the Tribal consultation requirements of the California Public Resource Code Sections 245545.7.4, 21080.3.1, 21082.3, and 21080.3.2 (CEC 2025, page 5.4-24).

### **The California Public Resource Code Section 25545.7.4**

The CEC, and this proposed project, is subject to Division 15 (Energy Conservation and Development) Chapter 6.2 (Certification of Nonfossil-Fueled Powerplants, Energy Storage Facilities, and Related Facilities) Section 25545.7.4 of the Public Resource Code (CEC 2025, page 5.4-24) which includes the following items:

#### The Utilization of the Native American Heritage Commission

According to the CA Pub Res Code § 25545.7.4(a) "the commission shall contact the Native American Heritage Commission for assistance in identifying any California Native American Tribe that is traditionally and culturally affiliated with the geographic area of the proposed development."

The "CEC staff began its review of the application without formal Tribal consultation" by stating that the "CEC does not have prior requests for CEQA consultation from any of the tribes affiliated with the project vicinity" (CEC 2025, page 5.4-24). Therefore, the CEC staff did not "contact the Native American Heritage Commission for assistance" (CA Pub Res Code § 25545.7.4(a)) until prior to "February 7, 2023" (official date not stated) (CEC 2025, page 5.4-24). This contact was not to "identify any California Native American Tribe that is traditionally and culturally affiliated with the geographic area of the proposed development" (CA Pub Res Code § 25545.7.4(a)) but to request a Sacred Lands File search



(CEC 2025, page 5.4-24). Therefore, the CEC failed to adhere to the CA Pub Res Code § 25545.7.4(a) by not contacting the NAHC to identify CNA Tribes for consultation.

#### Contacting All of the Traditionally and Culturally Affiliated Tribes

According to the CA Pub Res Code § 25545.7.4(a) "the commission shall contact the Native American Heritage Commission for assistance in identifying any California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development" to "submit the application to all California Native American tribes that are culturally and traditionally associated with the geographic area of the proposed site and initiate consultation, as defined in Section 65352.4 of the Government Code, with those tribes pursuant to Sections 21080.3.1, 21080.3.2, and 21082.3."

On "November 3, 2023, the CEC staff sent 10 tribal consultation letters inviting Tribes to consult on the Fountain Wind Project" (CEC 2025, page 5.4-24), however, there is no statement that the CEC staff contacting the NAHC "for assistance in identifying any California Native American Tribe that is traditionally and culturally affiliated with the geographic area of the proposed development" (CA Pub Res Code § 25545.7.4(a)). Upon review of the "10 Tribal consultation letters" only 7 CNA Tribes were notified including the Greenville Rancheria of Maidu Indians, the Pit River Tribe of California, the Quartz Valley Indian Community, the Redding Rancheria, the Susanville Indian Rancheria, the Winnemem Wintu Tribe, and the Wintu Tribe of Northern California (CEC 2023, pages 1-71). However, previous Tribal Consultation letters were also sent to the Nor-Rel-Muk Nation, the Shasta Nation, and various bands of the Pit River Tribe including the Madesi Band, the Atsuge Band, the Ajumawi Band, and the Aporgie Band (Stantec 2018, pages 3-4). Therefore, the CEC failed to adhere to the CA Pub Res Code § 25545.7.4(a) by not contacting the NAHC to identify the CNA Tribes that are traditionally and culturally affiliated with the geographic area of the proposed development nor submitting the application "to all California Native American Tribes that are culturally and traditionally associated with the geographic area of the proposed site and initiate consultation, as defined in Section 65352.4 of the Government Code, with those tribes pursuant to Sections 21080.3.1, 21080.3.2, and 21082.3."

### **The California Public Resource Code Section 21080.3.1**

The CEC, and this proposed project, is subject to Division 13 (Environmental Quality) Chapter 2.6 (General) Section 21080.3.1 of the Public Resource Code (CEC 2025, page 5.4-24) which includes the following items:



### The Tribal Consultation Notice Requirements

According to the CA Pub Res Code § 25545.7.4(d) the CEC "shall provide formal notification to the designated contact of, or a tribal representative of, traditionally and culturally affiliated California Native American Tribes...which shall be accomplished by means of at least one written notification that includes a brief description of the proposed project and its location, the lead agency contact information, and a notification that the California Native American tribe has 30 days to request consultation pursuant to this section."

The "CEC staff sent 10 Tribal consultation letter inviting tribes to consult on the Fountain Wind Project" (CEC 2025, page 5.4-24). These Tribal consultation letters included the brief description of the proposed project, its location, and the lead agency contact information but failed to include a notification that the California Native American Tribe has 30 days to request consultation (CEC 2023, pages 1-71). The CEC failed to adhere to the CA Pub Res Code § 25545.7.4(d) by omitting the required notice of 30-day response period for the CNA to request consultation.

### The 30-Day Deadline Requirement

According to the CA Pub Res Code § 25545.7.4(e) the CEC "shall begin the consultation process within 30 days of receiving a California Native American Tribe's request for consultation."

"The Pit River Tribe submitted a letter dated November 2, 2023, requesting the CEC engage in [tribal] consultation...regarding the proposed project (CEC 2025, page 5.4-26). The "consultation was initiated between the CEC staff and the Pit River People" on "January 11, 2024" (CEC 2025, page 5.4-26). This resulted in a consultation being initiated 70 days after the "receiving a California Native American Tribe's request for consultation" which greatly exceeds, by 40-days, the "within 30 days" requirement to begin the consultation process (CA Pub Res Code § 25545.7.4(e)). The CEC failed to adhere to the CA Pub Res Code § 25545.7.4(e) by not beginning consultation within 30 days of receiving the Pit River Tribe's request for consultation.

The DEIR omits information regarding whether any additional Tribal consultation letters/requests were received by CEC staff from other Tribes.

## **The California Public Resource Code Section 21082.3**



The CEC, and this proposed project, is subject to Division 13 (Environmental Quality) Chapter 2.6 (General) Section 21082.3 of the Public Resource Code (CEC 2025, page 5.4-24) which includes the following items:

EIR Certification with a TCR Significant Impact

According to the CA Pub Res Code § 21082.3(d) the CEC "may certify an environmental impact report...for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs: (1) The consultation process between the California Native American tribe and the lead agency has occurred as provided in Sections 21080.3.1 and 21080.3.2 and concluded pursuant to subdivision (b) of Section 21080.3.2. (2) The California Native American Tribe has requested consultation pursuant to Section 21080.3.1 and has failed to provide comments to the lead agency, or otherwise failed to engage, in the consultation process. (3) The lead agency has complied with subdivision (d) of Section 21080.3.1 and the California Native American Tribe has failed to request consultation within 30 days."

The Montgomery-Hatchet Creek Tribal Cultural Landscape, which is "held sacred by the Pit River Tribe" (CEC 2025, page 5.4-26) who through consultation expressed their "desire to preserve the...cultural heritage of this area" (CEC 2025, page 5.4-27), is determined to be "a Tribal Cultural Resource" (CEC 2025, page 5.4-37). CEC staff concludes that both the project construction (CEC 2025, page 5.4-50) and project operation (CEC 2025, page 5.4-51) would have a "significant and unavoidable impact" to the Montgomery-Hatchet Creek Tribal Cultural Landscape. As a result, the CEC "may [only] certify an environmental impact report...for a project with a significant impact on an identified Tribal Cultural Resource only if one of the following [three criteria] occurs" (CA Pub Res Code § 21082.3(d)).

**Frist Criteria:** The consultation process between the Pit River Tribe and the CEC has occurred (initiated on "January 11, 2024" (CEC 2025, page 5.4-26)) as provided in Sections 21080.3.1 and 21080.3.2 and (not yet) concluded pursuant to subdivision (b) of Section 21080.3.2 (CA Pub Res Code § 21082.3(d)(1)). It is stated that at "the publication of this DEIR, the CEC staff continues consultation with the Pit River Tribe" (CEC 2025, page 5.4-27) meaning that Tribal consultation has not concluded. Therefore, this proposed project does not meet the first criteria as Tribal consultation continues.

**Second Criteria:** The Pit River Tribe has requested consultation pursuant to Section 21080.3.1 on November 2, 2023 (CEC 2025, page 5.4-26) and has (not yet) failed to provide comments to the lead agency, or otherwise failed to engage, in the consultation





process (CA Pub Res Code § 21082.3(d)(2)). It is stated that at “the publication of this DEIR, the CEC staff continues consultation with the Pit River Tribe” (CEC 2025, page 5.4-27) meaning that Tribal consultation has not failed. Therefore, this proposed project does not meet the second criteria as tribal consultation continues.

**Third Criteria:** The CEC has complied with subdivision (d) of Section 21080.3.1 and the Pit River Tribe has (not) failed to request consultation within 30 days (CA Pub Res Code § 21082.3(d)(3)). “On November 3, 2023, the CEC staff sent 10 Tribal consultation letters inviting Tribes to consult on the Fountain Wind Project” (CEC 2025, page 5.4-24). “The Pit River Tribe submitted a letter dated November 2, 2023, requesting the CEC engage in [Tribal] consultation...regarding the proposed project (CEC 2025, page 5.4-26). Therefore, this proposed project does not meet the third criteria as the Pit River Tribe’s request triggered the CEC to send tribal consultation letters which omitted the required notice of 30-day response period for the CNA to request consultation (CEC 2023, pages 1-71).

Therefore, since none of the above criteria are currently met, the CEC may not “certify an environmental impact report...for a project with a significant impact on an identified Tribal Cultural Resource” (CA Pub Res Code § 21082.3(d)) as CEC staff concludes that both the project construction (CEC 2025, page 5.4-50) and project operation (CEC 2025, page 5.4-51) would have a “significant and unavoidable impact” to the Montgomery-Hatchet Creek Tribal Cultural Landscape.

## **The California Public Resource Code Section 2108.3.2**

The CEC, and this proposed project, is subject to Division 13 (Environmental Quality) Chapter 2.6 (General) Section 21080.3.2 of the Public Resource Code (CEC 2025, page 5.4-24) which includes the following items:

### Tribal Consultation Conclusion

According to the CA Pub Res Code § 21082.3(d) the CEC “shall” only consider the Tribal consultation to be “concluded” when either of the following occurs: (1) The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource. (2) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.

**First Criteria:** The CEC staff mentions that the “Pit River Tribe and CEC staff held four consultation meetings” which discussed “impacts, mitigation measures (conditions of certification), and alternatives to the proposed project” (CEC 2025, page 5.4-26) stated





that the "Tribal representatives" stated that "no mitigation measures can reduce the impacts of the proposed project to a less-than-significant level" (CEC 2025, page 5.4-27) but fails to state if both the parties agreed to any "measures to mitigate or avoid a significant effect" as there is a "significant effect" "on a Tribal cultural resource" (CA Pub Res Code § 21082.3(d)(1)). It is also stated that at "the publication of this DEIR, the CEC staff continues consultation with the Pit River Tribe" (CEC 2025, page 5.4-27) meaning that Tribal consultation has not been fully exhausted. Therefore, this proposed project does not meet the first criteria as Tribal consultation has not been concluded.

**Second Criteria:** The CEC staff mentions that the "Pit River Tribe and CEC staff held four consultation meetings" (CEC 2025, page 5.4-26) and that at "the publication of this DEIR, the CEC staff continues consultation with the Pit River Tribe" (CEC 2025, page 5.4-27) means that consultation has not been concluded and "that mutual agreement cannot be reached" (CA Pub Res Code § 21082.3(d)(2)). It is not well documented whether either "party" was fully "acting in good faith" or "reasonable effort" (CA Pub Res Code § 21082.3(d)(2)). Therefore, this proposed project does not meet the second criteria as Tribal consultation has not been concluded.

Therefore, since none of the above criteria are met, the CEC cannot consider the Tribal consultation to be "concluded" and must continue acting in "acting in good faith and after reasonable effort" towards "mutual agreement" (CA Pub Res Code § 21082.3(d)). Additionally, CEC staff stated that, "if Tribal cultural resources could be impacted by a CEQA project, [lead agencies] are to exhaust the consultation to points of agreement or termination" (CEC 2025, 5.4-42).

## **TRIBAL CULTURAL RESOURCES**

During the Tribal Consultation process, the CEC is subject to the Tribal Cultural Resource requirements of the California Public Resource Code Sections 21080.3.2 (CEC 2025, page 5.4-24).

### **The California Public Resource Code Section 21080.3.2**

The CEC, and this proposed project, is subject to Division 13 (Environmental Quality) Chapter 2.6 (General) Section 21080.3.2 of the Public Resource Code (CEC 2025, page 5.4-24) which includes the following items:

#### Significance of Tribal Cultural Resources



According to the CA Pub Res Code § 21080.3.2(a) the CEC "The consultation may include discussion concerning the...significance of Tribal Cultural Resources."

The Pit River "Tribe's comments regarding specific impacts to Tribal Cultural Resources will be submitted directly to the CEC under confidential cover" (PRT 2023, page 6) and comments about specific cultural places in the project site and vicinity to ensure that confidentiality of those places is protected" which was also provided "under separate cover to protect the confidentiality of that information" (PRT 2023, page 4) for the CEC to consider.

Additionally, the Pit River Tribe has shared with CEC staff through a signed letter (PRT 2023, pages 5-6) and through tribal consultation (CEC 2025, page 5.4-26) certain resources that are culturally significant to the Pit River Tribe and were determined to be Tribal Cultural Resources (CEC 2025, page 5.4-26):

- a) Traditional hunting practices/places/wildlife (including deer, elk, antelope, mountain sheep, rabbits, waterfowl, other small game, and insects) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- b) Traditional gathering practices/places/plants (including epos, grass seeds, sunflower seeds, oaks, acorns, pine forests, juniper, and sagebrush) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- c) Traditional ethnobotanical plants (including basket, roots, tule fiber, and medicinal plants (CEC 2024, pages 5.4-26 and 5.4-36).
- d) Traditional Sacred/Ceremonial places/areas (PRT 2023, page 4, CEC 2025, pages 5.4-18, 5.4-26 and 5.4-38).
- e) Traditional Tribal trails (CEC 2025, page 5.4-26).
- f) Fish (including salmon, bass, catfish, lamprey, pike, suckers, trout, minnows, crawfish, and mussels) (CEC 2025, pages 5.4-36 and 5.4-38).
- g) Streams, lakes, meadows, and swamps important to the Pit River Tribe (PRT 2023, page 4, CEC 2025, pages 5.4-36 and 5.4-38).
- h) Sacred waters and springs (PRT 2023, page 4)
- i) Traditional ceremonial places/practices, places of spirituality, religions expression, sacred sites, and other sacred traditions (CEC 2025, pages 5.4-26, 5.4-36)
- j) Traditional places of refuge, power places, resting places, places of fasting, mythic places, places where mythic creatures dwelt, various good luck places (CEC 2025, pages 5.4-26, 5.4-36, 5.4-38, 5.4-39)
- k) Ancestral cemeteries (CEC 2025, page 5.4-36)



In violation of the CEC's obligations under CA Pub Res Code § 21080.3.2(a) the above resources were not each evaluated independently but instead were only considered as part of the Montgomery-Hatchet Creek Tribal Cultural Landscape (CEC 2025, page 5.4-35). This error was made despite CEC staff acknowledging that each of the above listed resources are **individual** Tribal Cultural Resources including:

- "In summary, a wide variety of potentially sensitive, significant, and both recorded and unrecorded tribal cultural resources are within the PAA [Project Area of Analysis]" (CEC 2025, page 5.4-39),
- "The CEC staff have determined that the following additional...locations, and places of significance are of cultural and tribal interest..." (CEC 2025, Page 5.4-38),
- "...the applicant has identified various areas of tribal interest..." (CEC 2025, page 5.4-39),
- "Abundant information about cultural resources and uses of the proposed project area..." (CEC 2025, page 5.4-36),
- "...previous cultural reports containing information relevant to the PAA [Project Area of Analysis] documented numerous additional tribal areas of significance or interest" (CEC 2025, page 5.4-39),
- "...these individual resources..." (CEC 2025, page 5.4-35),
- "...numerous tribal cultural resources are in and around the project site and leasehold" (CEC 2025, page 5.4-35),
- "...tribal resources that include an archeological component, and Native American and historic archeological resources are within the PAA [Project Area of Analysis]" (CEC 2025, page 5.4-39),
- "Various and specific locations" (CEC 2025, page 5.4-38),
- "Historic and current resource locations that include the above are found within the PAA [Project Area of Analysis]" (CEC 2025, page 5.4-36).

Despite the "numerous" resources being identified by the Pit River Tribe and the acknowledgement from CEC staff, the individual "sites, features, places, cultural landscapes, sacred places, or objects" (CEC 2025, page 5.4-2) were not evaluated individually in the DEIR.

CEC staff state for "ethnographic resources, the PAA [Project Area of Analysis] considers sacred sites, Tribal Cultural Resources, traditional cultural properties (places), and larger areas such as ethnographic landscapes that can be vast and encompassing, including view sheds that contribute to the historical significance of such resources" (CEC 2025, page 5.4-18) and "should also be considered when analyzing the overall sensitivity of the PAA



[Project Area of Analysis]" (CEC 2025, page 5.4-38). In other words, Tribal Cultural Resources can be, and are, evaluated differently. But the CEC failed to evaluate each of the Tribal Cultural Resources independently and instead purports to address them only a part of the Montgomery-Hatchet Creek Tribal Cultural Landscape (CEC 2025, page 5.4-35). The EIR must independently evaluate the Project's potential impacts to **each** of these Tribal Cultural Resources and must propose feasible mitigation to reduce any significant impacts to **each** of these Tribal Cultural Resources. (CA Pub Res. Code §§21061, 21100(b)(3); CEQA Guidelines §§15121(a), 15126.4(a).

## **TCR IMPACTS**

During the Tribal Consultation process, the CEC is subject to the Tribal Cultural Resource requirements of the California Public Resource Code Sections 21082.3, 21084.3, and 21080.3.2 (CEC 2025, page 5.4-24). Additionally, "Treatment of Tribal Cultural Resources shall comply with Section 21084.3" (CA Pub Res Code § 25545.7.4(b)).

### **The California Public Resource Code Section 21082.3**

The CEC, and this proposed project, is subject to Division 13 (Environmental Quality) Chapter 2.6 (General) Section 21082.3 of the Public Resource Code (CEC 2025, page 5.4-24) which includes the following items:

#### Tribal Cultural Resource Significant Impact

According to the CA Pub Res Code § 21082.3(d) if "a project may have a significant impact on a Tribal Cultural Resource, the lead agency's environmental document shall discuss both of the following: (1) Whether the proposed project has a significant impact on an identified Tribal Cultural Resource. (2) Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to subdivision (a), avoid or substantially lessen the impact on the identified Tribal Cultural Resource."

CEC staff concludes that both project construction (CEC 2025, page 5.4-50) and project operation (CEC 2025, page 5.4-51) would have a "significant and unavoidable impact" to the Montgomery-Hatchet Creek Tribal Cultural Landscape which is determined to be "a Tribal Cultural Resource" (CEC 2025, page 5.4-37).

Additionally, the Pit River Tribe has shared the following Tribal Cultural Resources with the CEC:



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- a) Traditional hunting practices/places/wildlife (including deer, elk, antelope, mountain sheep, rabbits, waterfowl, other small game, and insects) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- b) Traditional gathering practices/places/plants (including epos, grass seeds, sunflower seeds, oaks, acorns, pine forests, juniper, and sagebrush) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- c) Traditional ethnobotanical plants (including basket, roots, tule fiber, and medicinal plants (CEC 2024, pages 5.4-26 and 5.4-36).
- d) Traditional Sacred/Ceremonial places/areas (PRT 2023, page 4, CEC 2025, pages 5.4-18, 5.4-26 and 5.4-38).
- e) Traditional Tribal trails (CEC 2025, page 5.4-26).
- f) Fish (including salmon, bass, catfish, lamprey, pike, suckers, trout, minnows, crawfish, and mussels) (CEC 2025, pages 5.4-36 and 5.4-38).
- g) Streams, lakes, meadows, and swamps important to the Pit River Tribe (PRT 2023, page 4, CEC 2025, pages 5.4-36 and 5.4-38).
- h) Sacred waters and springs (PRT 2023, page 4)
- i) Traditional ceremonial places/practices, places of spirituality, religions expression, sacred sites, and other sacred traditions (CEC 2025, pages 5.4-26, 5.4-36)
- j) Traditional places of refuge, power places, resting places, places of fasting, mythic places, places where mythic creatures dwelt, various good luck places (CEC 2025, pages 5.4-26, 5.4-36, 5.4-38, 5.4-39)
- k) Ancestral cemeteries (CEC 2025, page 5.4-36)

These Tribal Cultural Resources are not "identified" in the DEIR under the list of the proposed project's "impact" (CA Pub Res Code § 21082.3(d)(1)) nor were any "feasible alternatives or mitigation measures, including those measures that may be agreed to...avoid or substantially lessen the impact on the identified Tribal Cultural Resource" (CA Pub Res Code § 21082.3(d)(2)).

Identified California Register of Historical Resources

According to the CA Pub Res Code § 21082.3(d) if "a project may have a significant impact on a Tribal Cultural Resource, the lead agency's environmental document shall discuss both of the following: (1) Whether the proposed project has a significant impact on an identified Tribal Cultural Resource."

CEC staff have identified the Montgomery-Hatchet Creek Tribal Cultural Landscape to be a tribal cultural resource (CEC 2025, page 5.4-50) that qualifies for the California



Register of Historical Resources (CRHR) under Criteria 1 and 4 (CEC 2025, page 5.4-37) due to the "lengthy cultural association with the Pit River Tribe and their ancestors" which also provides "ample sources of information for native, ethnographic, and archaeological understandings of this cultural landscape" (CEC 2025, page 5.4-37).

However, the CEC also states that "there are no tribal cultural resources listed or eligible for listing in the CRHR" and "no impacts would occur during construction tribal cultural resources already listed or eligible for listing in the CRHR" (CEC 2025, page 5.4-50) and that "[i]mpacts on tribal cultural resources listed or eligible for listing in the CRHR...would therefore not occur during operation or maintenance" (CEC 2025, page 5.4-50).

Therefore, although the CEC identified a tribal cultural resource (CEC 2025, page 5.4-50) eligible for CRHR (CEC 2025, page 5.4-37) within the discussion, they failed to discuss the potential impacts under section 5.4.2.2.(d)(i) of the DEIR (CEC 2025, page 5.4-50) which discusses the "substantial adverse change in the significance of a tribal cultural resources" "that is listed or eligible for listing in the California of Historical Resources..." (CEC 2025, page 5.4-50).

#### Tribal Cultural Resources Avoidance

According to the CA Pub Res Code § 21084.3(a) the CEC "shall, when feasible, avoid damaging effects to any tribal cultural resource."

The DEIR does not comply with CEQA as it does not document that the CEC considered "feasible" (CA Pub Res Code § 21084.3(a)) options to "avoid damaging effects" to the tribal cultural resources identified by the Pit River Tribe including:

- a) Traditional hunting practices/places/wildlife (including deer, elk, antelope, mountain sheep, rabbits, waterfowl, other small game, and insects) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- b) Traditional gathering practices/places/plants (including epos, grass seeds, sunflower seeds, oaks, acorns, pine forests, juniper, and sagebrush) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- c) Traditional ethnobotanical plants (including basket, roots, tule fiber, and medicinal plants (CEC 2024, pages 5.4-26 and 5.4-36).
- d) Traditional Sacred/Ceremonial places/areas (PRT 2023, page 4, CEC 2025, pages 5.4-18, 5.4-26 and 5.4-38).
- e) Traditional Tribal trails (CEC 2025, page 5.4-26).





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- f) Fish (including salmon, bass, catfish, lamprey, pike, suckers, trout, minnows, crawfish, and mussels) (CEC 2025, pages 5.4-36 and 5.4-38).
- g) Streams, lakes, meadows, and swamps important to the Pit River Tribe (PRT 2023, page 4, CEC 2025, pages 5.4-36 and 5.4-38).
- h) Sacred waters and springs (PRT 2023, page 4)
- i) Traditional ceremonial places/practices, places of spirituality, religions expression, sacred sites, and other sacred traditions (CEC 2025, pages 5.4-26, 5.4-36)
- j) Traditional places of refuge, power places, resting places, places of fasting, mythic places, places where mythic creatures dwelt, various good luck places (CEC 2025, pages 5.4-26, 5.4-36, 5.4-38, 5.4-39)
- k) Ancestral cemeteries (CEC 2025, page 5.4-36)

Therefore, based on the DEIR, the CEC has failed to consider "feasible" ways to "avoid damaging effects to any tribal cultural resource" (CA Pub Res Code § 21082.3(e)).

Tribal Cultural Resources: Adverse Change

According to the CA Pub Res Code § 21084.3(b) that if the CEC "determines that a project may cause a substantial adverse change to a Tribal Cultural Resource, and measures are not otherwise identified in the consultation process provided in Section 21080.3.2, the following are examples of mitigation measures that, if feasible, may be considered to avoid or minimize the significant adverse impacts" by considering:

- 1) Avoid and preserve the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria (CA Pub Res Code § 21084.3(b)(1)).
- 2) Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following: Protecting the cultural character and integrity of the resource, the traditional use of the resource, and the confidentiality of the resource (CA Pub Res Code § 21084.3(b)(2)).
- 3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places (CA Pub Res Code § 21084.3(b)(3)).
- 4) Protecting the resource (CA Pub Res Code § 21084.3(b)(4)).





**Evaluation of CEC's Staff Assessment for the Fountain Wind Energy Project – Tribal Cultural Resource Impacts**

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Although the CEC has identified and analyzed the potential impact of the Montgomery-Hatchet Creek Tribal Cultural Resource, which is "Significant and Unavoidable" (CEC 2025, Page 5.4-50), the CEC failed to disclose how the proposed project, during the planning and construction, can avoid and preserve the Tribal Cultural Resources "with culturally appropriate protection and management criteria" (CA Pub Res Code § 21084.3(b)(1)) that the Pit River Tribe has identified, including:

- a) Traditional hunting practices/places/wildlife (including deer, elk, antelope, mountain sheep, rabbits, waterfowl, other small game, and insects) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- b) Traditional gathering practices/places/plants (including epos, grass seeds, sunflower seeds, oaks, acorns, pine forests, juniper, and sagebrush) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- c) Traditional ethnobotanical plants (including basket, roots, tule fiber, and medicinal plants (CEC 2024, pages 5.4-26 and 5.4-36).
- d) Traditional Sacred/Ceremonial places/areas (PRT 2023, page 4, CEC 2025, pages 5.4-18, 5.4-26 and 5.4-38).
- e) Traditional Tribal trails (CEC 2025, page 5.4-26).
- f) Fish (including salmon, bass, catfish, lamprey, pike, suckers, trout, minnows, crawfish, and mussels) (CEC 2025, pages 5.4-36 and 5.4-38).
- g) Streams, lakes, meadows, and swamps important to the Pit River Tribe (PRT 2023, page 4, CEC 2025, pages 5.4-36 and 5.4-38).
- h) Sacred waters and springs (PRT 2023, page 4)
- i) Traditional ceremonial places/practices, places of spirituality, religions expression, sacred sites, and other sacred traditions (CEC 2025, pages 5.4-26, 5.4-36)
- j) Traditional places of refuge, power places, resting places, places of fasting, mythic places, places where mythic creatures dwelt, various good luck places (CEC 2025, pages 5.4-26, 5.4-36, 5.4-38, 5.4-39)
- k) Ancestral cemeteries (CEC 2025, page 5.4-36)

The CEC must treat these Tribal Cultural Resources "with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource" (Pub Res Code § 21084.3(b)(2)). Avoiding and preserving these Tribal Cultural Resources include protecting the "cultural character and integrity of the resource (CA Pub Res Code § 21084.3(b)(2)(A)), the traditional use of the resource (CA Pub Res Code § 21084.3(b)(2)(B)), the confidentiality of the resource (CA Pub Res Code § 21084.3(b)(2)(C)) through a permanent conservation easements or other interests in real property, with culturally appropriate management criteria (CA Pub Res Code § 21084.3(b)(3)). The CEC failed to



disclose how the proposed project, during the planning and construction, can avoid and preserve the Tribal Cultural Resources, mentioned in the previous section, "with culturally appropriate protection and management criteria" (CA Pub Res Code § 21084.3(b)(1)).

### **The California Public Resource Code Section 21080.3.2**

The CEC, and this proposed project, is subject to Division 13 (Environmental Quality) Chapter 2.6 (General) Section 21080.3.2 of the Public Resource Code (CEC 2025, page 5.4-24) which includes the following items:

#### Tribal Cultural Resources Project Impacts

According to the CA Pub Res Code § 21080.3.2(a) if the Pit River "Tribe requests consultation regarding alternatives to the project, recommended...significant effects, the consultation shall include those topics. The consultation may include discussion concerning the type of environmental review necessary...the significance of the project's impacts on the Tribal Cultural Resources..."

The Pit River Tribe stated that the proposed project would cause "harm...to the Tribe's homeland and tribal membership" (PRT 2023, page 8) and "poses an imminent threat to...our cultural heritage...that sustains us all" (PRT 2023, page 13).

Tribal members have shared input (CEC 2025, page 5.4-26), explained (CEC 2025, pages 5.4-26, 5.4-36), indicated (CEC 2025, pages 5.4-26, 5.4-36), expressed (CEC 2025, page 5.4-26), communicated (CEC 2025, page 5.4-35), notes (CEC 2025, page 5.4-36), described (CEC 2025, page 5.4-36), suggest (CEC 2025, page 5.4-37), and identified (CEC 2025, page 5.4-38) Tribal Cultural Resources, including:

- a) Traditional hunting practices/places/wildlife (including deer, elk, antelope, mountain sheep, rabbits, waterfowl, other small game, and insects) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- b) Traditional gathering practices/places/plants (including epos, grass seeds, sunflower seeds, oaks, acorns, pine forests, juniper, and sagebrush) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- c) Traditional ethnobotanical plants (including basket, roots, tule fiber, and medicinal plants (CEC 2024, pages 5.4-26 and 5.4-36).
- d) Traditional Sacred/Ceremonial places/areas (PRT 2023, page 4, CEC 2025, pages 5.4-18, 5.4-26 and 5.4-38).
- e) Traditional Tribal trails (CEC 2025, page 5.4-26).



- f) Fish (including salmon, bass, catfish, lamprey, pike, suckers, trout, minnows, crawfish, and mussels) (CEC 2025, pages 5.4-36 and 5.4-38).
- g) Streams, lakes, meadows, and swamps important to the Pit River Tribe (PRT 2023, page 4, CEC 2025, pages 5.4-36 and 5.4-38).
- h) Sacred waters and springs (PRT 2023, page 4)
- i) Traditional ceremonial places/practices, places of spirituality, religions expression, sacred sites, and other sacred traditions (CEC 2025, pages 5.4-26, 5.4-36)
- j) Traditional places of refuge, power places, resting places, places of fasting, mythic places, places where mythic creatures dwelt, various good luck places (CEC 2025, pages 5.4-26, 5.4-36, 5.4-38, 5.4-39)
- k) Ancestral cemeteries (CEC 2025, page 5.4-36)

The Pit River Tribe shared how the proposed project would “disrupt” (CEC 2025, page 5.4-37) and “adversely affect” (CEC 2025, pages 5.4-26, 5.4-36) Tribal Cultural Resources and the Tribe’s “desire to preserve” (CEC 2025, page 5.4-27) them. Although the CEC acknowledges these “numerous” and “individual” Tribal Cultural Resources (CEC 2025, page 5.4-35), they have failed to include an individual analysis of the potential impacts and significance of the project’s impact during construction (CEC 2025, page 5.4-50) and operation (CEC 2025, page 5.4-51) to these numerous Tribal Cultural Resources under the Environmental checklist established by Cal. Code Regs., tit. 14, Div. 6, Chapter 3, Appendix G, section XVIII Tribal Cultural Resources subsection (a)(i). Therefore, the CEC failed to disclose the “significance of the project’s impacts on the Tribal Cultural Resources” (CA Pub Res Code § 21084.3(a)).

## **TCR MITIGATION MEASURES**

During the Tribal Consultation process, the CEC is subject to the mitigation measure requirements of the California Public Resource Code Sections 245545.7.4, 21082.3 and 21080.3.2 (CEC 2025, page 5.4-24).

### **The California Public Resource Code Section 25545.7.4**

The CEC, and this proposed project, is subject to Division 15 (Energy Conservation and Development) Chapter 6.2 (Certification of Nonfossil-Fueled Powerplants, Energy Storage Facilities, and Related Facilities) Section 25545.7.4 of the Public Resource Code (CEC 2025, page 5.4-24) which includes the following items:

#### Tribal Monitoring During Earthwork



According to the CA Pub Res Code § 25545.7.4(d) since the CEC concluded “that Tribal Cultural Resources would be adversely affected by ground disturbing activities, the commission shall include in any license granted a requirement that Tribal monitors monitor any archaeological, earthwork, and ground disturbing activities associated with the facility if monitors have been designated pursuant to this subdivision” (CA Pub Res Code § 25545.7.4(d)).

CEC staff concluded that both the project construction (CEC 2025, page 5.4-50) and project operation (CEC 2025, page 5.4-51) would have a “significant and unavoidable impact” to the Montgomery-Hatchet Creek Tribal Cultural Landscape which is determined to be “a tribal cultural resource” (CEC 2025, page 5.4-37). Additionally, the CEC staff determined “that there is a high potential for the finding of unknown Native American archeological resources eligible to the CRHR during construction that could also qualify as Tribal Cultural Resources” due to “multiple cultural reports, including the applicant’s, have determined that archaeological site are present...throughout the PAA [Project Area of Analysis]” (CEC 2025, page 5.4-51). Therefore, since the Tribal Cultural Resources are adversely affected by ground disturbance, the CEC shall require tribal monitors during “any archaeological, earthwork, and ground disturbing activities” (CA Pub Res Code § 25545.7.4(d)).

The Tribal monitors are currently tasked through COC CUL-1 to “observe excavations of native soil” but this provision excludes the tribal monitors from COC CUL-1 with “construction personnel involved in ground disturbance” other than preparing a “training program” (CEC 2025, page 5.4-55). The COCs CUL-1 through CUL-4 impermissibly excludes the requirements for tribal monitors to monitor “any [and all] archaeological, earthwork, and ground disturbing activities” (CA Pub Res Code § 25545.7.4(d)) including any fill soils. Therefore, the COC CUL-1 does not fully address the required responsibilities of the Tribal monitor and is in violation of CA Pub Res Code § 25545.7.4(d).

#### CNA Designated Tribal Monitors

According to the CA Pub Res Code § 25545.7.4(d) the CEC is required to ensure that “Tribal monitors shall be designated by the California Native American tribes that are culturally or traditionally associated with the geographic area of the proposed site to observe and monitor activities at the site and may include tribal historic preservation officers and additional technically appropriate experts, as needed” (CA Pub Res Code § 25545.7.4(d)).



Although the CEC has provisions for the Tribal monitor (or the "Native American monitor") selection in COC CUL-1 including a "preference in selecting Native American monitors (CEC 2025, page 5.4-55) and an offer to provide "the opportunity for cultural resource monitors from the Pit River Tribe" (CEC 2025, page 5.4-56), the CEC is required to have Tribal monitors "designated by the California Native American Tribes that are culturally or traditionally associated with the geographic area of the proposed site" which may include the "Tribal historic preservation officers and additional technically appropriate experts, as needed" (CA Pub Res Code § 25545.7.4(d)). Therefore, the COC CUL-1 does not fully address the required responsibilities of the Tribal monitor according to CA Pub Res Code § 25545.7.4(d).

### **The California Public Resource Code Section 21082.3**

The CEC, and this proposed project, is subject to Division 13 (Environmental Quality) Chapter 2.6 (General) Section 21082.3 of the Public Resource Code (CEC 2025, page 5.4-24) which includes the following items:

#### Feasible Mitigation Measure

According to the CA Pub Res Code § 21082.3(e) "If the mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of the consultation or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a Tribal Cultural Resource, the lead agency shall consider feasible mitigation pursuant to subdivision (b) of Section 21084.3."

The Montgomery-Hatchet Creek Tribal Cultural Landscape is determined to be "a Tribal Cultural Resource" (CEC 2025, page 5.4-37) with the potential impact being "significant and unavoidable" both during the project construction (CEC 2025, page 5.4-50) and operation (CEC 2025, page 5.4-51). Therefore, the CEC "shall consider feasible mitigation" (CA Pub Res Code § 21082.3(e)).

The current COCs (CUL-1 through CUL-4) are all basic minimum responsibilities already required by law:

- CUL-1: CA Pub Res Code § 25545.7.4(d) & PEN § 622 1/2.
- CUL-2: CA Pub Res Code §§ 5097.993-5097.994, 21083.2, & 21084.1 and CA PEN § 622 1/2.
- CUL-3: CA Pub Res Code §§ 21084.3(b) & 5097.99 and CA PEN § 622 1/2.



- CUL-4: 14 CA Code of Regs 15064.5(f) & (e), CA Pub Res Code § 5097.98, & CA Health & Safety Code § 7050.5, 7051, 7052, 7054, & 8010-8011.

The CEC has failed to “consider feasible mitigation” (CA Pub Res Code § 21082.3(e)) and even limits the COC (which are basic minimum responsibilities required by law) including CUL-1 based on the vague and unenforceable standard of “to the extent feasible” (CEC 2025, page 5.4-56) and CUL-3 “if feasible” and “if...not feasible” (CEC 2025, page 5.4-57). The DEIR does not define what would be consider “feasible” and thus the mitigation measures are not adequate.

Therefore, the CEC has failed to document that is considered all “feasible mitigation” even though it concedes the “substantial evidence demonstrates that a project will cause a significant effect to a Tribal Cultural Resource” (CA Pub Res Code § 21082.3(e)).

### **The California Public Resource Code Section 21080.3.2**

The CEC, and this proposed project, is subject to Division 13 (Environmental Quality) Chapter 2.6 (General) Section 21080.3.2 of the Public Resource Code (CEC 2025, page 5.4-24) which includes the following items:

#### Incorporate Project Changes

According to the CA Pub Res Code § 21080.3.2(c)(2) the CEC may “incorporate changes and additions to the project as a result of the consultation, even if not legally required.” Although at “the publication of this DEIR, the CEC staff continues consultation with the Pit River Tribe” (CEC 2025, page 5.4-27) the CEC is aware of the discussed “impacts, mitigation measures (conditions of certification, and alternatives to the proposed project” that could have compelled the CEC to “consider feasible mitigation” (CA Pub Res Code § 21082.3(e)) and “to incorporate changes and additions to the project as a result of the consultation, even if not legally required” (CA Pub Res Code § 21080.3.2(c)(2)) in order to “avoid damaging effects to any Tribal Cultural Resource” (CA Pub Res Code § 21084.3(a)) including those tribal cultural resources “not otherwise identified in the consultation process” (CA Pub Res Code § 21084.3(b)). Therefore, the CEC has failed to incorporate potentials changes to the proposed project, even if not legally required, for the protection of Tribal Cultural Resources according to CA Pub Res Code § 21080.3.2(c)(2).

#### Omitted Decommissioning Plan as Mitigation Measure

According to the CA Pub Res Code § 21080.3.2(a) the CEC as “part of the consultation pursuant to Section 21080.3.1, the parties may propose mitigation measures, including,





but not limited to, those recommended in Section 21084.3, capable of avoiding or substantially lessening potential significant impacts to a Tribal Cultural Resource or alternatives that would avoid significant impacts to a tribal cultural resource. If the California Native American Tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or significant effects, the consultation shall include those topics. The consultation may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American Tribe may recommend to the lead agency."

The Montgomery-Hatchet Creek Tribal Cultural Landscape is determined to be "a Tribal Cultural Resource" (CEC 2025, page 5.4-37) with the potential impact being "significant and unavoidable" both during the project construction (CEC 2025, page 5.4-50) and operation (CEC 2025, page 5.4-51). Therefore, the Pit River Tribe may propose mitigation measures as part of the consultation (CA Pub Res Code § 21080.3.2(a)).

The Pit River Tribe did request "clarification on the CEC's decommissioning guidelines" (PRT 2023, page 7) and provided "recommendations and suggestions regarding decommissioning" (PRT 2023, page 6). The Pit River Tribe also requested that "the developer would be required to prepare a Draft Decommissioning Plan that details a restoration plan and how Project facilities and infrastructure would be removed" (PRT 2023, page 6).

The Pit River Tribe requested that "the CEC require a Decommissioning Fund be created and fully funded for the decommissioning costs prior to the certification of the project" including "the total decommissioning costs related to items noted above, plus projected inflation" and that "Tribal consultation with the developer in drafting whatever decommissioning plan that CEC deems necessary for Project approval" (PRT 2023, page 7).

Although the Decommission and Site Restoration is part of the project description (CEC 2025, page 3-31) there is no mention of the involvement or participation with the Pit River Tribe. Additionally, the Decommission Plan is required to address the "specified mitigation for impacts to biological resources" (CEC 2025, page 3-31) without addressing mitigation for Tribal Cultural Resources and/or the Montgomery-Hatchet Creek Tribal Cultural Landscape.





The CEC failed to incorporate the Pit River Tribe's requested "recommended mitigation measure," of including the Pit River Tribe during the draft of the decommissioning plan, which could be "capable of avoiding or substantially lessening potential significant impacts to a Tribal Cultural Resource" CA Pub Res Code § 21080.3.2(a). Therefore, the COC does not fully address the CEC's required responsibilities of incorporating a recommended mitigation measure requested during Tribal consultation by omitting the decommission plan mitigation measure from the environmental document, according to CA Pub Res Code § 21080.3.2(a).

#### Omitted Mitigation for the Montgomery-Hatchet Creek Tribal Cultural Landscape

According to the CA Pub Res Code § 21080.3.2(a) the CEC as "part of the consultation pursuant to Section 21080.3.1, the parties may propose mitigation measures, including, but not limited to, those recommended in Section 21084.3, capable of avoiding or substantially lessening potential significant impacts to a Tribal Cultural Resource or alternatives that would avoid significant impacts to a tribal cultural resource. If the California Native American Tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or significant effects, the consultation shall include those topics. The consultation may include discussion concerning the type of environmental review necessary, the significance of Tribal Cultural Resources, the significance of the project's impacts on the Tribal Cultural Resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American Tribe may recommended to the lead agency."

Although at "the publication of this DEIR, the CEC staff continues consultation with the Pit River Tribe" (CEC 2025, page 5.4-27) the CEC, through Tribal consultation (CEC 2025, page 5.4-26), determined the Montgomery-Hatchet Creek Tribal Cultural Landscape to be "a Tribal Cultural Resource" (CEC 2025, page 5.4-37) with the potential impact being "significant and unavoidable" both during the proposed project's construction (CEC 2025, page 5.4-50) and operation (CEC 2025, page 5.4-51). Additionally, the Montgomery-Hatchet Creek Tribal Cultural Landscape qualifies for the California Register of Historical Resources (CRHR) Criteria 1 and 4 (CEC 2025, page 5.4-37) due to the "lengthy cultural association with the Pit River Tribe and their ancestors" and provides "ample sources of information for native, ethnographic, and archaeological understandings of this cultural landscape" (CEC 2025, page 5.4-37).



The CEC stated that the proposed project “will drastically impact viewshed to and from surrounding sacred mountains requiring isolation and tranquility, with sweeping natural vistas, to retain their historic integrity...” (CEC 2025, page 5.4-50) and would cause a “drastic alteration to the natural topography, obstruction of sweeping natural vistas, and the overall disturbance to the tranquility and isolation...” (CEC 2025, page 5.4-51).

The CEC should have “consider[ed] feasible mitigation” (CA Pub Res Code § 21082.3(e)) “even if not legally required” (CA Pub Res Code § 21080.3.2(c)(2)) by “avoiding or substantially lessening potential significant impacts to a Tribal Cultural Resource or alternatives that would avoid significant impacts to a Tribal Cultural Resource” (CA Pub Res Code § 21080.3.2(a)) and a resource eligible for listing in the CRHR (14 CCR § 15096(g)). Examples include preparing a Historic American Landscape Survey Report for archiving and distribution as was required for similar Wind projects, including TerraGen’s Humboldt Wind Energy Project (2019).

The Historic American Landscape Survey Report shall be prepared, prior to any project-related ground disturbance, by a professional who meets the Secretary of the Interior’s Professional Qualifications Standards for Architectural History. The documentation of the cultural/historic landscape shall be prepared based on the National Park Service’s Historic American Landscape Survey (HALS) report guidelines and shall contain written and photographic documentation of the cultural/historic landscape that will be negatively affected by the project. However, the documentation will not be reviewed by the National Park Service or transmitted to the Library of Congress, and therefore, does not need to be a full-definition dataset. The HALS guidelines include a three-part outline format which includes: (1) historical information (physical history, historical context); (2) physical information; and (3) sources of information. Additionally, large-format black-and-white archival photographs shall be taken of the cultural/historic landscape which includes (1) contextual views; (2) detail views of impact viewsheds; and (3) any relevant detail views. The photographs shall be fully captioned and referenced on a photographic key and placed on file with the Shasta County and distributed to the Shasta State Historic Park Courthouse Museum, Shasta Historical Society, and other local historical societies, libraries, and museums as necessary.

Therefore, the CEC has failed to incorporate potential changes to the proposed project, even if not legally required, for the protection of Tribal Cultural Resources according to CA Pub Res Code § 21080.3.2(c)(2).



## **OTHER EIR SECTIONS**

The proposed project's potential impacts on Tribal Cultural Resources carries over into other sections of the EIR including Chapter 5.15 (Visual Resources) and Chapter 5.2 (Biological Resources).

### **Chapter 5.15 (Visual Resources)**

Chapter 5.15 (Visual Resources) of the EIR fails to mention the project's anticipated effects on Tribal Cultural Resources and specifically omits any meaningful discussion related to the Montgomery-Hatchet Creek Tribal Cultural Landscape or the cumulative impacts from the Hatchet Ridge-Bunchgrass Mountain.

The Pit River Tribe's "cultural ties to its aboriginal lands are essential to the Tribe's identity and the continued existence of the Tribe as a Tribal entity (PRT 2023, page 1) as "the tribe and its nation have deep ties to the area" (CEC 2025, page 5.4-26). The "[n]atural and cultural resources are indistinguishable from the Pit River People and are a central element of the spirituality, traditional ceremonial practices, religious expressions, history, and identity of the tribe and tribal members" (CEC 2025, page 5.4-26). "Information from local Native Americans has emphasized the importance of the topography and surrounding viewshed, particularly from surrounding mountain tops" (CEC 2025, page 5.4-18).

The proposed project "poses an imminent threat to our sacred lands, our cultural heritage, and the fragile ecosystem that sustains us all" (PRT 2023, page 13) and "would result in significant adverse impacts to the viewshed...and Tribal Cultural Resources" which "will be felt by all who live, and travel through, the area, forever" (PRT 2023, page 2) by causing "harm" "to the Tribe's homeland and Tribal membership" (PRT 2023, page 8).

"The construction, operation, and the eventual decommission of the [proposed] Project will have unacceptable impacts on the viewshed...resources found in the area. The impacts to these resources are not limited just to the location of where the turbines would be placed, but will be seen, and felt, by the surrounding Tribal Bands from all of the surrounding Counties" (PRT 2023, pages 5-6).

#### Montgomery-Hatchet Creek Tribal Cultural Landscape

The Montgomery-Hatchet Creek Tribal Cultural Landscape, which includes "viewsheds" (CEC 2025, page 5.4-26) and "viewshed of surrounding ridges and peaks" (CEC 2025, page 5.4-37) "held sacred by the Pit River Tribe" (CEC 2025, page 5.4-26) who through consultation expressed their "desire to preserve the natural beauty and cultural heritage



of this area" (CEC 2025, page 5.4-27), is determined to be "a Tribal Cultural Resource" (CEC 2025, page 5.4-37).

Impacts to visual resources are discussed for the Montgomery-Hatchet Creek Tribal Cultural Landscape as "Tribal members expressed concern that the construction, operation, and maintenance of the project" "would adversely affect...the viewshed of mountains held sacred by the Tribe" (CEC 2025, page 5.4.36). These visual impacts of the proposed project would "drastically impacting viewsheds" and would cause the "obstruction of sweeping natural vistas" (CEC 2025, page 5.4-51) which has "transcendent significance to the Pit River Tribe" (CEC 2025, page 5.4-37).

CEC staff concludes that both the project construction (CEC 2025, page 5.4-50) and project operation (CEC 2025, page 5.4-51) would have a "significant and unavoidable impact" to the Montgomery-Hatchet Creek Tribal Cultural Landscape as the project "will drastically impact the viewshed to and from surrounding sacred mountains" (CEC 2025, page 5.4-50), provide a "drastic alteration to the natural topography, obstruction of sweeping natural vistas" (CEC 2025, page 5.4-51), and "would present a significant visual intrusion" (CEC 2025, pages 5.4-51 & 5.4.52). Additionally, the CEC staff have determined that the "implementation of COC's CUL-1 through CUL-4, will not reduce impacts to...less than significant level" both during construction (CEC 2025, page 5.4-51) and operation (CEC 2025, page 5.4-52).

The CEC has determined that aesthetic impacts under criterion b (CEC 2025, page 5.15-8) are less than significant, but fails to consider any impacts to the Montgomery-Hatchet Creek Tribal Cultural Landscape. This impact threshold requires specific discussion and analysis regarding the project's potential to substantially damage scenic resources. In defining scenic resources, the CEC notes "A cultural resource, historic property or landmark may be included. It should be recognized that cultural and historic values differ from aesthetic or scenic values (e.g., elegance, harmonious, imposing, sublime)" (CEC 2025, page 5.15-16). The CEC has erred in its conclusion of less than significant impact for criterion b, as it conflicts with the previous determination of significant and unavoidable related to the Montgomery-Hatchet Creek Tribal Cultural Landscape in Chapter 5.4 (Cultural and Tribal Cultural Resources).

The CEC failed to appropriately acknowledge and analyze the potential significance of visual impacts to the Montgomery-Hatchet Creek Tribal Cultural Landscape within Chapter 5.15 (Visual Resources).



### Hatchet Ridge-Bunchgrass Mountain

The Cumulative impact, which "consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts" (Cal. Code Regs., tit. 14, § 15130(a)(1)), must be addressed if the incremental effect of a project, combined with the effects of other projects, is "cumulatively considerable," and therefore potentially significant (Cal. Code Regs., tit. 14, § 15130(a)(2)). Such incremental effects are to be "viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects" (Cal. Code Regs., tit. 14, § 15130(b)(1)). Together, these projects comprise the cumulative scenario which forms the basis of the cumulative impact analysis.

The Hatchet Ridge Wind Project which "has been in operation since 2010" (CEC 2025, page 5.4-53) is "within [the] PAA [Project Area of Analysis]" (CEC 2025, page 5.4-28) and is considered part of the cumulative impact analysis (CEC 2025, page 5.4-53). "The proposed project combined with the existing Hatchet Ridge Wind Project has visually impacted a tribal cultural landscape" (CEC 2025, page 4-53). The Hatchet Ridge-Buchgrass Mountain is "a historical resource" (CEC 2025, page 5.4-35) and a "Tribal Cultural Resource" (CEC 2025, page 5.4-53) important to the Pit River Tribe" which includes "view sheds" and "surrounding viewsheds" (CEC 2025, page 5.4-18) and the visual cumulative impacts are determined to be "significant and unavoidable" (CEC 2025, page 5.4-52) both during construction (CEC 2025, page 5.4-46) and during operation (CEC 2025, page 5.4-48) as "the proposed project would alter the landscape and would visually impact an identified Tribal Cultural Resource" (CEC 2025, page 5.4-53) and "would spoil these remaining viewsheds" and will "continue to spoil the vistas" (CEC 2025, page 5.4-48).

Although the Hatchet Ridge Wind Project is listed under cumulative impacts (CEC 2025, page 5.15-7 and Appendix 1, page 7) and the Hatchet Ridge-Bunchgrass Mountain is "within [the] PAA [Project Area of Analysis]" (CEC 2025, page 5.4-28), the CEC has determined that aesthetic impacts under criterion b (see Chapter 5.15; EIR pg. 5.15-8) are "less than significant," absent consideration of any impacts to the cumulative impacts from Hatchet Ridge-Buchgrass Mountain. This impact threshold requires specific discussion and analysis regarding the project's potential to substantially damage scenic resources. In defining scenic resources, the CEC notes "A cultural resource, historic property or landmark may be included. It should be recognized that cultural and historic values differ from aesthetic or scenic values (e.g., elegance, harmonious, imposing, sublime)" (see EIR pg. 5.15-16). The CEC has underestimated the magnitude of the impact



related to scenic resources in Chapter 5.15 as a primary concern expressed by the Pit River Tribe and therefore erred in its conclusion of "less than significant impact" for criterion b. This determination is in direct contradiction with the CEC's determination of "significant and unavoidable" related to the impacts on the Hatchet Ridge-Bunchgrass Mountain as noted above (see Chapter 5.4 [Cultural and Tribal Cultural Resources]).

The CEC failed to appropriately acknowledge and analyze the potential significance of visual impacts to the Hatchet Ridge-Bunchgrass Mountain within Chapter 5.15 (Visual Resources).

## **Chapter 5.2 (Biological Resources)**

Chapter 5.2 (Biological Resources) of the EIR fails to mention the proposed project's anticipated effects on Tribal Cultural Resources and specifically omits any meaningful discussion related to the culturally significant biological resources and mitigation measures within the decommission plan.

The Pit River Tribe's "cultural ties to its aboriginal lands are essential to the Tribe's identity and the continued existence of the Tribe as a Tribal entity (PRT 2023, page 1) as "the Tribe and its Nation have deep ties to the area" (CEC 2025, page 5.4-26). The "[n]atural and cultural resources are indistinguishable from the Pit River People and are a central element of the spirituality, traditional ceremonial practices, religious expressions, history, and identity of the tribe and tribal members." (CEC 2025, page 5.4-26)

The proposed project "poses an imminent threat to our sacred lands, our cultural heritage, and the fragile ecosystem that sustains us all" (PRT 2023, page 13) and "would result in significant adverse impacts to the...biological environment and Tribal Cultural Resources" which "will be felt by all who live, and travel through, the area, forever" (PRT 2023, page 2) by causing "harm" "to the Tribe's homeland and Tribal membership" (PRT 2023, page 8).

"The construction, operation, and the eventual decommission of the [proposed] Project will have unacceptable impacts on the...biological resources found in the area. The impacts to these resources are not limited just to the location of where the turbines would be placed, but will be seen, and felt, by the surrounding Tribal Bands from all of the surrounding Counties" (PRT 2023, pages 5-6).

### Culturally Significant Biological Resources





The Pit River Tribe has shared culturally significant biological resources with the CEC staff for consideration of the impacts, mitigation measures, and alternatives of the proposed project. These culturally significant biological resources were shared with CEC staff through a signed letter (PRT 2023, pages 5-6) and through Tribal consultation (CEC 2025, page 5.4-26).

These resources were determined to be culturally significant to the Pit River Tribe and determined to be Tribal Cultural Resources (CEC 2025, page 5.4-26) included within the Tribal Cultural Landscape (CEC 2025, page 5.4-35) but not addressed within Chapter 5.2 (Biological Resources) of the EIR:

- Traditional hunting practices/places/wildlife (including deer, elk, antelope, mountain sheep, rabbits, waterfowl, other small game, and insects) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- Traditional gathering practices/places/plants (including epos, grass seeds, sunflower seeds, oaks, acorns, pine forests, juniper, and sagebrush) (CEC 2025, pages 5.4-26, 5.4-36, and 5.4-38).
- Traditional ethnobotanical plants (including basket, roots, tule fiber, and medicinal plants (CEC 2024, pages 5.4-26 and 5.4-36).
- Traditional Sacred/Ceremonial places/areas (PRT 2023, page 4, CEC 2025, pages 5.4-18, 5.4-26 and 5.4-38).
- Traditional Tribal trails (CEC 2025, page 5.4-26).

These resources were determined to be culturally significant to the Pit River Tribe and determined to be Tribal Cultural Resources (CEC 2025, page 5.4-26) included within the Tribal Cultural Landscape (CEC 2025, page 5.4-35) but not addressed with cultural significance within Chapter 5.2 (Biological Resources) of the EIR:

- Fish (including salmon, bass, catfish, lamprey, pike, suckers, trout, minnows, crawfish, and mussels) (CEC 2025, pages 5.4-36 and 5.4-38).
- Streams, lakes, meadows, and swamps important to the Pit River Tribe (PRT 2023, page 4, CEC 2025, pages 5.4-36 and 5.4-38).

CEC staff concludes that both the project construction (CEC 2025, page 5.4-50) and project operation (CEC 2025, page 5.4-51) would have a "significant and unavoidable impact" to the Montgomery-Hatchet Creek Tribal Cultural Landscape. Additionally, the CEC staff have determined that the "implementation of COC's CUL-1 through CUL-4, will not reduce impacts to...less than significant level" both during construction (CEC 2025, page 5.4-51) and operation (CEC 2025, page 5.4-52). These culturally significant biological





resources were not discussed or considered within the impacts, mitigation measures, and alternatives of Chapter 5.2 (Biological Resources) for the proposed project.

#### Decommissioning Plan Mitigation Measure

Although the Decommission and Site Restoration is part of the project description (CEC 2025, page 3-31) there is no mention of the involvement or participation with the Pit River Tribe. Additionally, the Decommission Plan is required to address the "specified mitigation for impacts to biological resources" (CEC 2025, page 3-31) without addressing mitigation for the culturally significant biological resources (Tribal Cultural Resources).

The CEC failed to incorporate the Pit River Tribe's requested "recommended mitigation measure," of including the Pit River Tribe during the draft of the decommissioning plan, which could be "capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource" CA Pub Res Code § 21080.3.2(a). Therefore, the COC does not fully address the CEC's required responsibilities of incorporating a recommended mitigation measure requested during Tribal consultation by omitting the decommission plan mitigation measure from the environmental document, according to CA Pub Res Code § 21080.3.2(a).

## **MINOR DISCREPANCIES**

There are some minor discrepancies including incomplete records, conflicting information, missing dates, and incorrect dates.

### **Incomplete Records**

There are missing records from the project-specific docket (23-OPT-01) including missing meeting records and missing NAHC records.

#### Missing Meeting Records

The CEC staff mentions that the "Pit River Tribe and CEC staff held four consultation meetings" (CEC 2025, page 5.4-26) but has not posted the meeting agenda or minutes to the project-specific docket (23-OPT-01). Although, the previous meeting agenda (Stantec 2020b, page 1) and minutes (Stantec 2020a, page 1) were posted on the docket (23-OPT-01).

#### Missing NAHC Records

The CEC Tribal consultation policy states that the "following project-specific consultation information will be filed with the CEC docket...CEC to NAHC, NAHC to CEC, and any Tribal



letter and CEC response letters transmitted under official letterhead" (CEC 2024, page 7) as part of the CEC's filing and public disclosure of CEC Tribal communications. The NAHC was contacted on "September 17, 2017" and responded on "September 19, 2017" (CEC 2025, page 5.4-23) and appears to be recorded within the docket (23-OPT-01) (TN 251252). The NAHC was contacted again on "October 29, 2019" and responded on "November 13, 2019" (CEC 2025, page 5.4-23) and appears to be recorded within the docket (23-OPT-01) (TN 251252). However, the CEC contacted the NAHC (date missing) and the NAHC responded on "February 7, 2023" (CEC 2025, page 5.4-24) which appears to be missing from the docket (23-OPT-01).

## **Conflicting Information**

There is conflicting information within the EIR document including the Ancestral Territories, Tribe's Contacted, Tribal Cultural Resources Title, and the Cultural Resources Title.

### Ancestral Territories

The ancestral territories of the Pit River Tribe bands appear to change throughout the document for the proposed project:

- "Atsuge, Itsatawi, and Madesi bands of the Pit River Tribe" (CEC 2025, page 5.4-35).
- "Achumawi, Atsugewi, and Yana" (CEC 2025, pages 5.4-36 and 5.4-37).
- "Itsatawi and Madesi bands" (CEC 2025, page 5.4-38).
- "Yana, Achumawi, and possibly the Yana" (CEC 2025, page 5.4-38).
- "Astsuge, Itsatawi, and Madesi" (CEC, page 5.4-56).

### Tribes Contacted

The CEC states that the outreach effort included contacting the following Tribes: "Pit River Tribe of California, Greenville Rancheria, Wintu Educational and Cultural Council, Nor-Rel-Muk Wintu Nation, Redding Rancheria, Shasta Nation, and the Winnemum Wintu Tribe of Northern California" (CEC 2025, page 5.4-24). However, only the Greenville Rancheria of Maidu Indians, Pit River Tribe of California, Quartz Valley Indian Community, Redding Rancheria, Susanville Indian Rancheria, Winnemen Wintu Tribe, and the Wintu Tribe of Northern California were contacted by the CEC (CEC 2023, pages 1-71). The "Quartz Valley Indian Community" and "Susanville Indian Rancheria" are missing from this list (CEC 2025, page 5.4-24). Additionally, the CEC has no record of contacting the "Nor-Rel-Muk Wintu Nation" or the "Shasta Nation" (CEC 2025, page 5.4-24 and CEC 2023, pages 1-71).

### Tribal Cultural Resources Title



The title of the document states "5.4 Cultural and Cultural Tribal Resources" (CEC 2025, page 5.4-1) when the section "assesses the potential impacts of the proposed project on cultural and Tribal Cultural Resources" (CEC 2025, page 5.4-1). The section title states, "Cultural Tribal Resources" instead of "Cultural Tribe Resources" (CEC 2025, page 5.4-1).

#### Cultural Resources Title

Under Section 5.4.2 of the DEIR (Environmental Impacts), the CEC titles one of the Categories as "Cultural and Tribal Cultural Resources" (CEC 2025, page 5.4-44) when the correct title would be "Cultural Resources" as the criteria "a," "b," and "c" are evaluated under Cultural Resources (CEC 2025, page 5.4-44) and the Tribal Cultural Resources are evaluated under criteria "d" and "e" (CEC 2025, pages 5.4-44 & 5.4-45).

### **Missing Dates**

There are several missing dates within the EIR document including the NAHC date.

#### NAHC Dates

The CEC staff contacted the Native American Heritage Commission (CEC 2025, page 5.4-24) and does not state a date. However, the NAHC response is stated as "February 7, 2023" (CEC 2025, page 5.4-24). The EIR omits the date of when CEC staff contacted the NAHC.

### **Incorrect Dates**

There are several incorrect dates within the EIR document including the Initial Pit River Tribal Consultation date.

#### Initial Pit River Tribal Consultation Date

"The Pit River Tribe submitted a letter dated November 2, 2023, requesting the CEC engage in [tribal] consultation...regarding the proposed project (CEC 2025, page 5.4-26). The "consultation was initiated between the CEC staff and the Pit River People" on "January 11, 2023" (CEC 2025, page 5.4-26). I believe the correct date for the initial consultation was January 11, 2024, not 2023 as the "four consultation meetings" held were "on January 11, July 29, August 26, and September 19, 2024" (CEC 2025, page 5.4-26).



## Documentation and References

CEC 2020a – California Energy Commission (TN 248320-4). Pit River Council Meeting Minutes, dated January 23, 2020. Accessed online at:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-OPT-01>

CEC 2020b – California Energy Commission (TN 248320-5). Pit River Meeting Agenda, dated June 12, 2020. Accessed online at:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-OPT-01>

CEC 2023 – California Energy Commission (TN 253026). Tribal Consultation Letters, dated November 7, 2023. Accessed online at:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-OPT-01>

CEC 2024 – California Energy Commission (CEC). Tribal Consultation Policy. CEC-700-2022-001. Sacramento, CA, February 2024. Available online at:

<https://www.energy.ca.gov/sites/default/files/2022-02/CEC-700-2022-001.pdf>

CEC 2025 – California Energy Commission (TN 262350). Fountain Wind Project, Staff Assessment, dated March 2025. Accessed online at:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-OPT-01>

PRT 2023 – Pit River Tribe (TN 252625). Pit River Tribe Comments - Objection to Fountain Wind Project, dated October 17, 2023. Accessed online at:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-OPT-01>

Stantec 2018 – Stantec Consulting Services (TN 248295). NAHC Letters, dated November 29, 2018. Accessed online at:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-OPT-01>

Stantec 2023 – Stantec Consulting Services (TN 248322). Fountain Wind Project, Application for Opt-in Certification, Executive Summary and Project Description,



dated January 4, 2023. Accessed online at:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-OPT-01>



## Qualifications of SHN Reviewer

Planning staff from SHN who contributed to the review of Chapter 5.4 (Cultural and Tribal Cultural Resources) include the following:

### **Ethan “Red Eagle” Lawton.**

Mr. Lawton's Native name is “Qawaaghhpak” (Kah-waugh-kak-buck), or Red Eagle. Although originally from Alaska, Mr. Lawton is a descendant of four different Tribal nations: a ¼ Inuit: Iñupiat; a ¼ Sioux: Lakḥóta; a ¼ Diné (commonly known as Navajo): Bitterwater; and a ¼ Tohono O'odham (formerly known as Papago) of which he is an enrolled member. Having experience working with +150 tribes as an intercultural specialist, tribal liaison, and planner, he specializes in bridging the gaps between cultures for the purposes of improving relationships and promoting understanding.

Mr. Lawton has 12 years of career experience working in Tribal governments, education, planning, and the engineering industries that includes: working with Native American people, Tribal governments, and various Tribal departments for the purpose of improving relationships between Tribal and non-Tribal entities, promoting understanding on Tribal sovereignty, Tribal consultations, Tribal lands (fee/trust), Tribal cultural resources, mitigation, and confidentiality.

Mr. Lawton has been responsible for correspondence between tribal and non-tribal entities and coordinates meetings with tribal governments and tribal community engagement. He provides strategic guidance on the consideration and inclusion of Tribal issues in development of projects, plans, programs, and policies. As a key Tribal contact, he facilitates Tribal consultations (Section 106, SB 18, and AB 52), conflict management, and best practices. Mr. Lawton's planning experience covering permits, land use projects, municipal planning, and NEPA/CEQA.

**Tribal Governments.** Mr. Lawton has extensive experience working with local Tribes including the Bear River Band of the Rohnerville Rancheria, Blue Lake Rancheria, Cher-Ae-Heights Indian Community of the Trinidad Rancheria, Elk Valley Rancheria, Hoopa Valley Tribe, Karuk Tribe, Pit River Tribe, Pulikla Tribe of Yurok People, Round Valley Indian Tribes of the Round Valley Reservation, Sherwood Valley Rancheria of the Pomo Indians, Tolowa Dee-ni' Nation, Wiyot Tribe, Yurok Tribe, and many other Tribes.

**Non-Tribal Entities.** Mr. Lawton has extensive experience advising multiple jurisdictions



in their efforts to work with Tribes, including Humboldt County, Marin County, San Benito County, Cal Poly Humboldt, Arizona State University, University of Irvine, University of North Carolina at Charlotte, City Crescent City, City of Trinidad, Northern Region Council of Land Trusts, McKinleyville Land Trust, Trinidad Land Trust, North Coastal Regional Land Trust, Mad River Rotary Club, Eureka Rotary Club, Juan Bautista de Anza National Historic Trail and many other entities.

Having broad knowledge, trainings, and experience, and good working relationships with tribes, agency staff, and private clients, Mr. Lawton assists in the success of cross-cultural, multi-jurisdictional, intergovernmental, and tribal-related projects. He also provides various trainings on Tribal and Cross-cultural topics, including:

**Meeting Cross-Culturally with Tribes: Ethics and Etiquette.** The primary purpose is to provide non-tribal entities with a better understanding of the range of cross-cultural interactions between tribal and non-tribal meetings. Addressing the Ethics and etiquette of things to understand before, during (verbal and non-verbal communication), and after the meeting. This social-cultural understanding will briefly cover what to do, what not to do, and best practices when bridging the cultural divide between traditional Tribal leaders/members and non-natives.

**Tribal Governments/Sovereignty.** The primary purpose is to provide non-tribal entities with a better understanding of tribal sovereignty, clarify the government-to-government relationship, and improve multi-jurisdictional engagement. The training will briefly cover the different classifications of tribal status the structure, function, source of power, and limitations of Tribal Governments with Gov-2-Gov best practices.

**Tribal Consultation.** The primary purpose is to provide non-tribal entities with a better understanding of tribal consultation, clarify the roles & responsibilities, and improve meaningful communication & correspondence. The training will briefly cover Policy Summary, Intent/Definitions, Process/Timetables, Purpose/Outcome, and Best Practices for Tribal Consultation.

**Tribal Lands.** The primary purpose is to provide non-tribal entities with a better understanding of how the different classifications of tribal lands have impacts on policy implications, project factors, and varying jurisdictions. A brief overview of the tribal land history, defining Rancherias & Reservations, addressing jurisdiction & authority over Fee & Trust lands, and explaining Fee to Trust conversion process.





**Tribal Cultural Resources & Mitigations.** The primary purpose is to provide non-tribal entities with a better understanding of the purpose and outcome of tribal consultation, developing and improving mitigation measures, and the importance of collaborating with tribal representatives. This training will briefly cover Cultural Resources, Tribal Cultural Resources, Trust Assets, Standard Mitigation Measures, and Creative Mitigation Measures.

**Tribal Confidentiality.** The primary purpose is to provide non-tribal entities with a better understanding of tribal confidentiality, improving communications and publications, building trust, and the importance of tribal sacred resources. This training will briefly cover existing legal protections, the Browns Act, sacred lands/resources, and confidentiality examples.

Additional training includes topics on Tribal Public Outreach, Developing Tribal Consultation Protocols, Tribal Land Use Planning, Tribal Ecological Knowledge (TEK), and other Tribal-related topics.

Mr. Lawton is a member of the Association of Environmental Professionals (AEP) the California North Coast Chapter, the American Planning Association (APA) California Northern Section and the Tribal and Indigenous Planning Division, the American Indian Science and Engineering (AISES), the Association on American Indian Affairs, the National Congress of American Indian (NCAI), and the Native Americans in Philanthropy. He frequently speaks at several APA/AEP webinars, workshops, and conferences.

Mr. Lawton also volunteers as a Tribal Advisor on the Cal Poly Humboldt Engineering Department Advisory Board (Advisor), Greater Eureka Chamber of Commerce (ECC) (Board of Directors), Redwood Coast Energy Authority (RCEA) (Community Advisory Committee, Chair), McKinleyville Land Trust (MLT) (Board of Directors), and the True North Organizing Network (Elders Caucus). He occasionally guests lectures at Cal Poly Humboldt Planning classes and at the Indian Natural Resources, Science & Engineering Program (INRSEP) meetings.

\*\*\*\*\*END OF MEMO\*\*\*\*\*

