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Fountain
WIND PROJECT

May 27, 2025

California Energy Commission
715 P Street
Sacramento, CA 95814

Re: Staff Assessment and Environmental Impact Report for Fountain Wind Project

Dear Commissioners:

Please find attached a comment letter regarding the Fountain Wind Staff Assessment and Environmental Impact Report ("Staff Assessment") prepared by Fountain Wind, LLC (“Applicant”).

As further discussed in the comment letter, the Fountain Wind Project is a near-shovel-ready, renewable energy project. It is located entirely on private commercially managed and harvested timberland in Shasta County, requires no discretionary federal permits, has secured interconnection rights from the CAISO, and would provide 200 MW of zero-emission energy to the California electric grid, enough electricity to power approximately 80,000 homes, or the equivalent of almost the entire city of Redding, California. It is well-sited, has adequate and immediately available transmission capacity, and is adjacent to the Hatchet Wind energy project that has successfully operated in a forested landscape *without any fire-related incidents since 2010.*

Yet, the Staff Assessment recommends project denial based on an apparent misinterpretation of key data and reliance on speculative impacts, most of which are based on the unsubstantiated conclusion that the project would hamper CAL FIRE’s ability to effectively suppress a wildfire through aerial firefighting and result in a catastrophic wildfire. To make this conclusion, the Staff Assessment relies on statements made by the local Shasta County fire authorities, and remains silent about the fact that CAL FIRE refuted several of the statements made by the local authorities.

The Staff Assessment has also provided limited acknowledgement of the project’s environmental benefits. The Assessment indicates that 200 MW of renewable energy is insignificant and that the project is not sufficiently efficient; however, Fountain Wind has an average capacity factor consistent with many other in-state wind projects. The Staff Assessment also fails to acknowledge the very small number of locations suitable for developing wind energy in California and does not acknowledge that this site is one of the few remaining sites with a commercially-viable wind regime. Importantly, the Staff Assessment also fails to acknowledge the project’s $2,000,000 agreement for job training and scholarships with the Shasta Community College Foundation and fails to include this agreement as part of its analysis of the project’s community benefits.

The Applicant is concerned with the number of seeming inaccuracies asserted by staff, including a broad comment made by staff at the May 20, 2025, informational hearing claiming that the project would result in “**47** significant and unavoidable” environmental impacts. According to the Staff Assessment, the project would only result in **11** such impacts. The Applicant acknowledges that Shasta County and the Pit River Tribe have

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mounted furious opposition to the project, but the purpose of AB 205 was to provide an unbiased, state-level forum to accelerate the building of wind, solar, and battery storage projects. The projects most likely to come to the CEC under the AB 205 program are the controversial projects, not the easy ones, where approval could be obtained faster and less expensively at the local level. When AB 205 was enacted, the Legislature intended to ensure that the CEC would carefully examine the record and render a factually based assessment and determination based on the record.

The Applicant is confident that the Fountain Wind Project is a well-designed project located away from population centers on private timber land immediately adjacent to another successfully operating wind project *that has resulted in none of the theoretical environmental impacts being attributed to Fountain Wind.* Based on Shasta County's own CEQA assessment of the Project that was completed in 2021, a fair assessment of the project indicates that the project would have *fewer environmental impacts* than most wind energy projects sited elsewhere with respect to wildlife, aquatic resources, traffic, air quality, socioeconomics, visual and cultural impacts. In fact, Shasta County's 2021 Environmental Impact Report for the project identified only visual, cultural, and biological impacts as significant and unavoidable and concluded that the project would not result in unmitigable wildfire impacts. But after approving the adjacent Hatchet Ridge project and concluding that the Fountain Wind Project would not have significant wildfire impacts, Shasta County now claims the opposite. A project denial by CEC will surely encourage other jurisdictions to deny projects at the local level and potentially to follow Shasta County's lead in enacting prohibitions on renewable energy projects that local governments wish would be located elsewhere.

CEC Commissioners are not obligated to accept that all of the conclusions made in the Draft EIR are absolute truth. Public Resources Code Section 21082.2(e) states that "[s]tatements in an environmental impact report and comments with respect to an environmental impact report shall not be deemed determinative of whether the project may have a significant effect on the environment." The Applicant requests that the CEC direct its staff to address the factual errors, inaccuracies, and unsubstantiated conclusions and produce a fair and accurate assessment, particularly on the issue of wildfire.

Approving this project will bring the state a significant step closer to meeting its stated goals of zero emissions energy. Denying this project will send a loud message to wind energy developers and investors that California is anti-wind. The Commission will not get another chance to consider as good a wind project as Fountain Wind for many years. The State of California urgently needs solar, battery storage and wind energy as part of its clean energy portfolio.

Sincerely,

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Fountain
WIND PROJECT

To:	California Energy Commission Kaycee Chang	**From:**	Fountain Wind, LLC
Project:	Fountain Wind Project (23-OPT-01)	**Date:**	May 27, 2025
RE:	**Applicant Comments on Staff Assessment and Environmental Impact Report for the Fountain Wind Project**		

1 Introduction

Fountain Wind, LLC ("Applicant") is proposing to develop the Fountain Wind Project ("Project") in Shasta County. This memorandum provides comments related to the analyses and impact conclusions published by the California Energy Commission (CEC) on March 25, 2025, in the Project's Environmental Impact Report and Staff Assessment (Staff Assessment).

According to the Staff Assessment, the Project has 11 significant and unavoidable ("S/U") impacts and one potentially significant and unavoidable impact (Staff Assessment p. 8-59 through 8-60). The Staff Assessment asserts that many of these S/U impacts result from the CEC's foregone conclusion that the Project will result in uncontrollable wildfire.

The Staff Assessment concludes that an uncontrollable and catastrophic wildfire is a strong likelihood as a result of the Project rather than an improbability. No agency analyzing a wind project in California has ever concluded that wind energy would result in that number of S/U impacts, including Shasta County in its Staff Assessment for the adjacent Hatchet Ridge project in 2008 or the previous iteration of this project in 2021. To our knowledge, no agency has ever concluded that a wind project would result in a significant and unavoidable impact to wildfire. There are over 200 operating wind projects in forested landscapes in the United States and Canada, and not a single one has been the precipitating cause of an uncontrolled wildfire to our knowledge, and the Staff Assessment points to none as evidence.

In addition, this conclusion is founded on the incorrect assumption that CAL FIRE would be unable to mount an effective aerial response to a wildfire at or near the Project site, and further that uncontrolled wildfire would subsequently spread to and impact resources, including plants and animals, within adjacent national forests and will "destroy habitat, remove access to foraging and reduce food sources, remove important sheltering sites, alter water chemistry and foul water ways with ash and debris." (Staff Assessment, p. 5.2-1). These extraordinary conclusions are not based upon substantial evidence. They also ignore information provided by credible experts *and from CAL FIRE itself,* indicating that these conclusions are incorrect. This result-oriented bias permeates the Staff Assessment and demonstrates that it was not prepared in accordance with CEQA.

The analyses in the Staff Assessment are results-oriented, overly conservative, and not based upon substantial evidence, as is required for Staff Assessments. Impact conclusions are based upon layers of speculation rather than substantial evidence, and proposed mitigation is disproportionate to the risk of impact. Any supporting data for the arguments in the analysis are cherry-picked to conform to the CEC's preferred outcome, and project-specific conclusions are drawn from vague, generalized supporting data

that overstate impacts, focus on speculative outcomes rather than the most likely, and ignore the environmental baseline and information docketed by the Applicant. Many mitigation measures are disproportionate to the impact, do not substantially reduce impacts, and introduce new impacts that are not considered in the impact analysis.

Below, the Applicant presents a rebuttal to the conclusions presented in the Staff Assessment. In summary:

2 CEC's Reasons for Denying the Project are Tenuous

The Staff Assessment asserts that the Project's failure to conform to local zoning supports a finding that the Project is not required for public convenience and necessity (Staff Assessment p. 11-19). Staff's reasoning for this finding can be summarized by the following assertions:

- Shasta County and the Pit River Tribe oppose the Project.
- The Project could have some environmental impacts to protected species.
- The Fountain Wind Project is too small.
- Other wind projects may be approved.
- The Project doesn't add to grid reliability.

Acknowledging that there is no firm definition of "public convenience and necessity," and acknowledging that "there is no reason evidence in this record suggesting this method of assessing the public convenience and necessity of a project would be inappropriate" the Staff Assessment makes a recommendation for denial based on 21 separate reasons, most of which are variations on the above five themes. The Assessment's conclusions regarding the number of significant and unavoidable impacts are surprising, especially when considering the previous CEQA analysis of wind energy at this location, and the successful track record of the nearby Hatchet Ridge project, which have been submitted as part of the Project record.

3 CEC's Conclusions are Not Based upon Substantial Evidence

Substantial evidence includes facts, reasonable assumptions based on facts, and expert opinion supported by facts. Substantial evidence does not include argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate, evidence that is not credible, or evidence of economic or social impacts that do not contribute to or are not caused by physical environmental impacts. Public Resources Code Sections 21080(e), 21082.2(c); 14 Cal Code Regs §§15064(f)(5)–(6), 15384.

3.1 CEC Based Its Wildfire Conclusions on Interviews with Officials Whose Statements Do Not Reflect Official CAL FIRE Positions

The Staff Assessment reaches multiple negative conclusions about the Project's environmental impacts, the majority of which are grounded on an erroneous conclusion that the Project's turbines would prevent CAL FIRE from effectively extinguishing a wildfire in the area because the turbines would unacceptably hamper aerial firefighting (e.g., Staff Assessment p. 5.2-299). These conclusions about wildfire are based on a series of interviews that CEC staff and/or its contractors had with local CAL FIRE officials who serve in multiple roles as CAL FIRE employees and as fire officials employed by Shasta County, as well as on flawed modeling by outside consultants. The Applicant believes the viewpoints expressed by the persons interviewed are neither objective nor credible.

On November 1, 2023, January 25, 2024, and February 20, 2024, the CEC docketed Records of Conversation ("ROCs") summarizing a series of telephone calls between CEC staff and/or consultants and fire officials (specifically Shasta County Fire Chief Sean O'Hara and CAL FIRE Staff Chief Jake

Sjolund).[1] The assertions about fire safety made in these interviews are far-reaching and unsubstantiated. On April 15, 2024, the Applicant's consultant team, comprised of fire experts with over 100 combined years of employment in fire service and significant experience in fighting wildland fires in Northern California ("PyroAnalysis"), analyzed the assertions made in the ROCs. In a detailed memorandum, PyroAnalysis explained why the statements documented in the ROCs are not supported by the evidence in the record and do not accurately reflect the Project's impact on wildfire risk. (See TN 255883).

The PyroAnalysis experts explain why the opinions expressed in the ROCs do not represent an official CAL FIRE position. The experts' letter urged the CEC to ask CAL FIRE for written responses to five key questions, included below, so that it could make a more informed decision regarding impacts, or lack thereof, related to wildfire.

- Clarify whether it is CAL FIRE's position, as asserted in the ROCs, that aircraft are required to maintain a minimum 500 feet of horizontal and vertical setback from a tower.
- Clarify whether it is CAL FIRE's position, as asserted in the ROCs, that it will not be able to execute aerial firefighting over and around the Project site, particularly with helicopters.
- Clarify whether it is CAL FIRE's position, as asserted in the ROCs, that the project must maintain vegetation clearance of 1.5 fuel length around structures.
- Clarify whether it is CAL FIRE's position, as asserted in the ROCs, that the proposed number and type of water sources proposed for fire protection related to 1) the wind turbines and 2) the construction of the Operations and Maintenance building are inadequate.
- Clarify whether it is CAL FIRE's position, as asserted in the ROCs, that the Project must provide a perimeter fuel break around the entirety of the Project site.

In the Applicant's docketed response to the ROC's, it was requested that CAL FIRE review the ROCs and provide its assessment of the assertions in the ROCs. On October 24, 2024, CAL FIRE Regional Chief George Morris wrote to the CEC (see TN 259802). Regional Chief Morris indicated that out of a total of twenty-eight (28) assertions in the ROCs, only nine responses represented official CAL FIRE positions or a statement of facts and that 19 responses in the ROCs are either not statements of fact or do not represent official CAL FIRE position. Specifically, CAL FIRE's October 24, 2024, letter disagreed with or disavowed the following assertions in the ROCs that local CAL FIRE officials provided to the CECs.

CAL FIRE disagreed with the following assertions, as docketed in TN 254899:

- Response 3 asserts that CAL Fire would not be able to use aerial assets within the Project boundary.
- Response 4 asserts that the turbines would make the dropping of retardant from aerial assets ineffective.

[1] Mr. O'Hara and Mr. Sjolund also have roles within CAL FIRE. Chief O'Hara has dual roles as both a Shasta County and CAL FIRE representative, which raises questions about his ability to be unbiased about the Project.

- Response 6 asserts that "an aerial asset must be at least 500 feet horizontally from a tower and/or 500 feet above a tower."
- Response 7 asserts that towers "would need at least a 100-feet [clear cut] clearance" around the towers for safety.
- Response 8 asserts that the "planned onsite water tanks would not be useful in firefighting" and that "a hydrant system would be more useful."
- Response 9 asserting that CAL FIRE lacks experience with aerial firefighting near wind farms in forested areas and that the unavailability of aerial firefighting hampers the effectiveness of firefighters and asserting that "they would prefer to see a fuel break around the entire perimeters of the Project site."

CAL FIRE disagreed with the following assertions, as docketed in TN 25483:

- Response 6 asserts that the proposal for on-site water sources is not adequate.

CAL FIRE disagreed with the following assertions, as docketed in TN 254875:

- Response 1 asserts that there are inadequate water sources to fight fires and that a hydrant system is needed.
- Response 4 asserts that CAL FIRE would like to see a perimeter fuel break around the entire perimeter of the site.
- Response 5 asserts that wind turbines present a greater aerial hazard than transmission lines.

By disavowing the assertions in the ROCs about fire risk from local CAL FIRE officials, CAL FIRE questions the adequacy and veracity of information provided in these ROCs. Yet the Staff Assessment relies heavily on the inaccurate assertions in these ROCs as the basis for a number of conclusions about fire risk, which are clearly unsubstantiated. When requested to fact-check the assertions, CEC staff repeatedly refused to follow-up with the CAL FIRE official who indicated he disagreed with conclusions in the ROCs. CAL FIRE's October 24, 2024, letter specifically invited follow-up from the CEC by stating, "We are happy to provide additional information, or clarification should it be desired." **To our knowledge, either CEC staff to date have declined to make further inquiry of CAL FIRE to obtain further clarification on the topics that were not endorsed or they are basing their conclusions on information that is not part of the Project record.**

The CEC's reliance on opinions that a high-ranking official at CAL FIRE has disavowed in writing represents a clear demonstration of bias against the Project. Now that it has received this letter, the CEC cannot rely on the conclusions it has reached without obtaining CAL FIRE's formal position **in writing** on critical topics, including aircraft use, fuel reduction, and water sources. As a result, almost all of the conclusions in the Staff Assessment about significant and unavoidable impacts are based on flawed conclusions about wildfire.

3.2 CEC's Wildfire Authors and Reviewers Lack Experience in Wildfire Management or Suppression

In the Authors and Reviewers portion of the Staff Assessment, Aurie Patterson of Aspen Consulting is noted as the author for the Hazards, Hazardous Materials and Wildfire (Staff Assessment p. 12-1). Ms. Patterson's CV does not show she has any background, education, training, or experience at all in wildfire spread, management, or suppression, which one would expect to see in these circumstances. Similarly, Dr. Alexandra Syphard of Conservation Biology Institute, noted as a contributor to the Wildfire section of the Staff Assessment (Staff Assessment p. 21-1), lacks training, education, or experience in wildfire management or suppression. Her CV indicates, instead, that she is a research ecologist with an academic interest in the effect of wildfires on landscapes. Her training, education, and experience are in "Geography," "Environmental Studies," "Public Health," and "English/Communications."

3.3 REAX's Wildfire Modeling is Fundamentally Flawed

The CEC is relying on Shasta County's wildfire modeling consultant, REAX, who is a fire protection engineering firm specializing in designing and evaluating fire protection systems for buildings and structures. REAX staff are not wildfire behavior or suppression experts. As previously stated in the Applicant's response to the REAX report, REAX's fire modeler is not a Fire Behavior Analyst ("FBAN") or an experienced wildland firefighter (see TN 260271). Lacking this training, REAX staff are not qualified to interpret complex wildland fire behavior models, opine on the effectiveness of aerial firefighting, or reach the conclusions expressed in the Staff Assessment letter, upon which CEC based its wildfire impact conclusions. Because they do not have the requisite knowledge, training, or experience to authoritatively evaluate wildfire suppression tactics in real-world conditions, REAX draws incorrect conclusions about fire risk, behavior, response, and suppression in the Staff Assessment. For example:

- **REAX overstates the importance of aerial firefighting in its analysis.** Aerial firefighting cannot control fire without coordinated ground support. Modeling the use of aerial resources (e.g., Staff Assessment p. 5.7-17) without simulating these follow-up, ground-based actions results in unrealistic containment outcomes. Any model that presumes successful suppression solely from aerial drops fails to represent real-world suppression dynamics and overstates the effectiveness of aerial firefighting. For example, ground-based crews are essential for holding retardant lines, as retardant alone cannot contain a wildfire without follow-up suppression actions. This is especially true in forested landscapes, where dense canopy cover restricts retardant penetration and surface fuels remain highly combustible. Only through years of on-the-ground experience can one gain a thorough understanding of the effects of ground-based vs. aerial suppression actions on wildfire behavior and their practical limitations. The REAX team lacks this experience, as evidenced by their report and incorrect conclusions.

- **Suppression actions cannot be accurately modeled, and yet REAX claims to do just that.** By REAX's acknowledgment, aerial suppression efforts were not, and cannot, be explicitly modeled. It is beyond the capabilities of currently available wildfire modeling software to accurately simulate fire suppression activities. Yet, as stated in the Staff Assessment, REAX's analyses "simulate fire behavior under two different fire ignition scenarios under the assumed

effect of two different fire suppression scenarios" (Staff Assessment p. 5.7-18). Modeling tools such as FARSITE and FlamMap (used by REAX) simulate suppression using user-defined artificial fire barriers. However, these arbitrary and static inputs unrealistically assume full and immediate effectiveness. This approach fails to account for the complex and variable factors that routinely influence suppression success, including spotting, delayed ground engagement, fuel loading, terrain, aircraft turnaround times, and adverse fire weather conditions that frequently lead to line failure in real-world operations. The limitations of the model are seen in REAX's inability to support its conclusion that VLATs (Very Large Air Tankers) could abruptly stop the fire after six hours in the "existing conditions" scenario (e.g., Staff Assessment p. 5.7-17). Because it is not within the capacity of the models used to reach this result, this assumption fails to constitute substantial evidence.

- **Very Large Air Tankers (VLATs) would not be available to respond to a wildfire at the Project site.** The REAX assessment relies on the erroneous assumption that VLATs would be used to fight a fire in this area. This assumption is incorrect. There are only four VLATs (specifically, DC-10 aircraft) in operation in the U.S., all of which are contracted during the peak fire season (summer months) to the U.S. Forest Service. They are also the least maneuverable of the fixed wing aerial response resources and, as a result, are not part of CAL FIRE's standard wildland initial attack aircraft response. Even if a VLAT were available for response to a CAL FIRE incident, the chance that one would arrive during the initial phases of a wildfire in this location is improbable and not supported by any evidence, making REAX's modeling effort relying on these aircraft (e.g., Staff Assessment p. 5.7-17) unreliable and unrealistic, again underscoring the fact that REAX does not have the proper qualifications or experience to opine on the topic at hand.

- **The importance of aerial resources is significantly overstated in REAX's analyses and conclusions.** Even assuming aerial resources other than VLATs would be used in the initial aerial suppression effort, REAX's conclusions fail to acknowledge that aerial support would not be available, as a result of CAL FIRE's own Fixed Wing Flight Standards, in wind speeds above 30 knots (34 mph), such as was modeled by REAX. Such speeds are well below the "extreme sustained wind speeds" of up to 56 mph, the REAX modelers determined, were "reasonable and prudent" to use as modeling inputs (Staff Assessment p. 5.7-17). Therefore, the REAX modeling cannot qualify as "substantial evidence" because it does not employ reasonable assumptions based on facts. Instead, REAX manufactures an extreme and improbable scenario, positing extensive wildfire damage regardless of the Project's presence or absence. Using the most extreme hypothetical for fire risk would ensure any project (wind or otherwise) would present a significant and unmitigable impact. In other words, even without the Project, the fire risks posited by REAX would still occur and could not be contained by aerial firefighting. REAX's modeling, therefore, provides no evidence that the Project would result in a significant and unavoidable wildfire impact, yet the CEC wholly relies on the model throughout the Staff Assessment while ignoring significant evidence that the Project would instead reduce wildfire risk compared to baseline conditions.

- **REAX's fire behavior modeling does not account for the benefits of fuel reduction.** REAX fails to evaluate the beneficial effect of the Project's fuel reduction measures. While REAX asserts that fuel treatments were considered in their modeling (Staff Assessment p. 5.7-18), they failed to conduct comparative fire simulations with and without the proposed measures. Their analysis includes only a single scenario that assumes existing conditions modified by fuel treatments. But without running a baseline model that excludes those treatments, it is impossible to quantify the actual benefit of the Project's features to wildfire reduction. Had REAX conducted a no-treatment modeling effort, the results would have shown significantly greater flame lengths, faster rates of spread, and increased spotting potential, demonstrating the value of the Project's features including fuel breaks, in impeding fire spread. CEC staff continuously state how the fuel breaks are ineffective, yet fail to back up this claim by conducting modeling with and without fuel breaks.

3.4 CEC's Assessment of Fuel Breaks is Incorrect

Staff asserts that fuel breaks may *increase* ignitions or flammability due to invasive species (Staff Assessment p. 5.7-15),. This misguided assertion has no basis in current science, best practices, and would appear to discount the hundreds of millions of dollars being spent on fuel reduction as an effective fire prevention strategy across California. This claim contradicts the very foundation of California's wildfire mitigation efforts and underestimates the proven value of fuel breaks in preventing the spread of wildfire. No credible fire expert or agency professional responsible for wildfire resilience would endorse the notion that reducing fuel along roadways *increases* the risk of wildfires. On the contrary, roadside fuel reduction is a cornerstone of community protection and tactical firefighting. Accidental ignitions do occur along roads, mostly from vehicles or human activity, but not because of the fuel reduction treatments themselves. To suggest that these proven, publicly funded interventions are counterproductive is not only factually incorrect, but it also undermines the credibility of the Staff Assessment's analysis and risks misinforming the public about the nature of wildfire mitigation science. The Staff Assessment also contradicts itself immediately following this argument, in HAZ-8 (Staff Assessment p. 5.7-53), by recommending additional fuel breaks be planned around the perimeter of the Project site to reduce the potential for fuel ignition and wildfire spread.

3.5 Timber Site Class is not Class I

CEC's forestry analysis incorrectly categorizes timberland quality on the Project site. Timberland quality ("Class") relates to the speed at which commercial trees mature, with faster growth equating to higher class. CEC claims in Table 5.17-1 (Staff Assessment p. 5.17-3 through 5.17-4) that the Project site is primarily Class I, based on the regulatory documents cited in the table's footnotes. The assertion that the Project will convert high-quality timberland is repeated a number of times in the Staff Assessment. This claim, however, conflicts with the forest manager's understanding and professional assessment of their managed timberlands, which has been assessed to be primarily Class II and III rather than Class I.

4 CEC's Conclusions Ignore or Contradict Evidence Provided by the Applicant

4.1 Wildfire Conclusions Contradict Information in Ten Documents Docketed by the Applicant

Despite Applicant-provided evidence showing low incidence of wildfires at other wind projects, the Staff Assessment concludes that the Project increases wildfire risk (Staff Assessment p. 5.7-42). Applicant statements in previous submittals (i.e., TNs 248297-3, 248297-1, 248292-4, 248330-2, 250320, 250341, 253505, 255883, 256430, and 260271) have demonstrated that the Project will significantly decrease the threat posed by the spread of wildfire as compared to baseline conditions. This conclusion is corroborated by the best-available surrogate for post-construction conditions, the Hatchet Ridge Wind Project, which is adjacent to the proposed Project and uses older, less fire-safe technology, has never experienced a fire incident since its construction. This fact is confirmed by CAL FIRE Chief O'Hara (TN 255883).

Below is a summary of Project actions that will decrease the threat posed by the spread of wildfire.

- **Project infrastructure and roads serve as active fuel breaks.** The Project, with its associated infrastructure including roadways, turbine pads, and other related infrastructure that will be nearly devoid of woody vegetation, will serve to break up the continuity of the existing dense vegetation. Breaking up these homogenous pine plantations can reduce the severity of wildfires and improve the survivability of the existing young pines. These access roads and turbine pads also effectively create numerous, permanent fuel breaks that will provide for increased opportunities to slow and contain the spread of wildfires. Some of these access roads will be located along ridgelines where fire suppression can be highly effective. The infrastructure, along with adjacent shaded fuel breaks, helps reduce the risk of wildfire to the landowner's existing timber stands, adjacent timber owners' properties, and neighboring inholding properties.

- **The Project would construct up to 667 acres of shaded fuel breaks**. As part of the Applicant proposed mitigation measures, a shaded fuel break will be maintained to 100 feet from the primary road's centerline, creating a fire break of 200 feet in width on ridgelines where roads exist. Secondary access roads are to have shaded fuel breaks extending 50 feet from the centerline of each road, and an area of approximately 2.5 acres around each of the turbines will be cleared of flammable vegetation. These fuel breaks will interrupt the interwoven conifer tree canopy and help stop the propagation of a crown fire, resulting in a low- intensity surface fire. Firefighters cannot safely engage a fire burning through the crowns of the forest canopy and would be forced to redeploy to sections of the fire where surface fire spread can be stopped with handlines, dozerlines, and hoselays. The fuel modifications proposed by the Project would provide safe access for firefighters to immediately engage a wildland fire from the network of roads and shaded fuel breaks constructed on the ridges south of Hwy 299 and Hatchet Ridge.

- **Project roadways will decrease fire response time across the area, facilitating increased capacity and safe access for firefighters.** The associated roadways and travel corridors that will provide access to the turbines and related infrastructure will also serve to greatly increase

access throughout the Project Area for wildfire suppression purposes, therefore decreasing response times for suppressing and containing wildfires. In addition, existing logging roads will be improved, and bridges will be reinforced and widened to support the heavier equipment typically used in wildfire suppression (e.g., fire engines, dozer transports/lowboy trailers, water tenders).

- **Project roadways can serve as anchor points in combating wildfires.** The cleared footprint of the Project roads, along with the adjacent shaded fuel breaks, provides an opportunity for firefighters to use this linear fire spread barrier as anchor points and containment lines for suppressing wildfires.

- **Project roadways will provide emergency access routes for residents.** Those same roadways and travel corridors will also provide for improved egress routes for occupied inholdings within and adjacent to the Project Area, which may be used for wildfire evacuation or other emergencies.

- **Water sources installed as part of the Project will facilitate fire suppression.** In combination with new or improved access roads, new, permanent water tanks distributed throughout the Project area will increase both the amount and the accessibility of water within the Project footprint for fire suppression.

- **Increased monitoring will facilitate the rapid detection of wildfire.** During construction and operations, the increase in authorized human presence in the Project Area (e.g., construction workers and fire patrols during construction, and remote monitoring and maintenance workers during operations) will allow for more rapid detection of wildfires in an area that was previously unmonitored for much of the year. In addition, because the Project's electrical infrastructure will be connected to PG&E's regional transmission network, including PG&E's high-voltage lines and associated rights-of-way that bisect the Project site, the Project's full-time remote monitoring program would alert personnel to incidents or hazardous conditions throughout PG&E's regional transmission network, even beyond project boundaries. If an incident is identified, Project operations personnel would be trained and staged to respond in addition to PG&E's operations personnel, effectively doubling the team responsible for detecting and responding to wildfires in the Project Area.

4.2 The Staff Assessment Analyses Fail to Acknowledge Applicant Environmental Commitments

Voluntary environmental commitments proposed by a project Applicant are typically integrated as part of project design. Commitments to avoiding, minimizing, and mitigating potential impacts should be acknowledged as part of the project description of the Staff Assessment and considered in impact analyses. This Staff Assessment fails to do this.

The Applicant has continued to commit to providing fire response training. During construction, the Project will maintain a fire coordinator who will be responsible for training all construction personnel on fire prevention, identification, reporting, and response, and who will have a direct line of communication to

appropriate authorities pursuant to the Project's Fire Prevention Plan and Emergency Response Plan. The Applicant will also be responsible for training and providing necessary equipment to CAL FIRE and the Shasta County Fire Department for the suppression of Project-specific fires. The Applicant has also continuously committed to implementing fire prevention strategies proposed in 2021 by CAL FIRE and the Shasta County Fire Department. The Staff Assessment fails to mention this commitment.

Similarly, the Staff Assessment ignores the Applicant's commitments to avoiding cultural resources. Specifically, the Staff Assessment concludes that two cultural resources, including a potential tribal cultural resource designated FW-11, will be destroyed by Project construction, constituting a significant impact to archaeological resources (see Staff Assessment p. 5.4-46). The Applicant has stated in several submittals (i.e., TNs 250741, 251254, 251255, 251256, and 251257), that complete avoidance of FW-11 is achievable and has already adjusted Project design to account for this (Refinement 7 in TN 248330-4); that avoidance of other isolates may also be possible with additional study; and that they are committed to undertaking a number of voluntary mitigation measures to ensure that impacts to surficial or subsurface cultural and tribal cultural artifacts are mitigated to a less-than-significant impact.

4.3 The Staff Assessment Ignores the Applicant's $2 Million Community Benefits Agreement with the Shasta Community College Foundation

On May 20, 2024, the Applicant docketed an executed community benefits agreement with the Shasta College Foundation, committing the Applicant to provide $2,000,000 in funds for use by Shasta College for an endowment as well as scholarships. (See TN 256472). The Staff Assessment is entirely silent about this agreement for unknown reasons. See Staff Assessment p. 10-17 through 10-19.

5 CEC's Assertions are Replete with Factual Inaccuracies

The Commissioners should discount staff's conclusions because they are based on numerous key factual inaccuracies. A sampling of these inaccuracies is set forth in the table below.

CEC Statement	Citation	Correction	Citation
The Assessment shows that the Project has **47** significant and unavoidable (S/U)impacts.	Stated by CEC staff during the Project's May 20, 2025 informational hearing. In Redding	The Assessment indicates that the Project has **11** significant and unavoidable ("S/U") impacts and one potentially significant and unavoidable impact	Table 8-90 on p. 8-59 and 8-60 of the Staff Assessment
The Project fails to enhance grid reliability.	Staff Assessment p. 11-14	The Fountain Wind Project Power System Benefits Report docketed on February 28, 2024 as TN 254714. concludes "The addition of the Fountain Wind Project will have a positive impact on the grid and will help mitigate some of the high voltage problems seen in the CAISO Transmission Assessments." This statement also reveals staff's unfamiliarity with the CPUC's assessment of wind energy's reliability contribution to the grid.	TN 254714
The Project has low capacity factor compared to other projects and would not be "reliable generation to address summer net peak needs during heat events."	Staff Assessment p. 11-9	In 2022, the CPUC began implementing a new 24-hour framework for its Resource Adequacy (RA) program, which took effect this year. This new reliability program adopted new project-specific hourly RA values for wind (and other) resources to reflect their production during each hour, including the most critical hours. The 2025 values published by the CPUC for Hatchet Ridge directly contradict staff's assertions, showing that the project's highest production months are June, July, and August, with reliable capacity during the highest system need (around 7 p.m.) to be 44% of nameplate value in June, 50% in July, 37% in August, and 36% in September -- far higher than the monthly average capacity factors noted by staff.	CPUC 2025 Master Resource Database
The Project conflicts with the State's 30 x 30 initiative.	Staff Assessment p. 11-15	The Project cannot conflict with the 30x30 initiative because the timberland in question falls outside of lands targeted by this initiative. The private timberland at issue does not qualify as "durably protected and managed areas" in that it is (a) not under government ownership, (b) not under perpetual easements and (c) has no species and habitat protection designations.	Pathways to 30x30 California: Accelerating Conservation of California's Nature. p. 25.
There are 16 other wind projects in the queue. Fountain Wind Project is not the only wind project that could be built in the near future in California.	Staff Assessment p. 11-9	Of the 22 interconnection requests currently in the queue that specify "wind", only two are in-state greenfield wind projects that are moving forward. Ten are repowers that have been built or are under construction, one is stalled indefinitely, one has converted to batteries, and five are in Baja or Nevada. Three projects are multi-technology that may not ultimately include wind.	Pers. Communication, Nancy Rader, Executive Director of California Wind Energy Association, 5/21/25.

CEC Statement	Citation	Correction	Citation
California does not need wind energy because there is so little in the queue and there is so much solar and battery storage in the queue.	Staff Assessment p. 11-9	This is a patently false conclusion. The CPUC's most recent adopted least-cost resource plan for achieving the state's greenhouse gas and grid reliability goals includes 5.2 GW of in-state wind energy by 2030 and 9 GW by 2045. That there is so little wind energy in the CAISO queue means that we need to approve as many viable projects as we can.	CPUC Decision 25-02-026 (February 20, 2025) at Table 1.
In analyzing community benefits, the staff assessment only analyzed the Project's $175,000 community benefit agreement with the Northeastern California Building and Construction Trades Council North State Trades.	Staff Assessment p. 10-17 through 10-19	The Staff Assessment fails to mention and entirely overlooks in its analysis the $2M agreement with Shasta Community College Foundation.	TN 256472
"Helicopters can also drop retardant but at a capacity much less than from an air tanker"	Staff Assessment p. 5.7-38; repeated during the Project's May 20, 2025 informational hearing	CAL FIRE's frontline initial attack helicopters are Sikorsky S70i Firehawks, each equipped with a 1,000-gallon fixed tank capable of delivering water. In addition, CAL FIRE has contracted 18 private Type I helicopters to augment its aviation fleet during peak wildfire season. Several of these helicopters are positioned to respond rapidly to fires in or near the Project area, including: • Redding Airport – Helimax CH-47 Chinook (2,300-gallon tank) • Chico Airport – Helimax CH-47 Chinook (2,300-gallon tank) • Rohnerville Airport – PJ Helicopters CH-47 Chinook (2,800-gallon bucket) • McClellan Airport – Billings CH-47 Chinook (2,500-gallon tank) • Siskiyou County Airport – PJ Helicopters UH-60 Blackhawk (1,100-gallon tank) For comparison: • CAL FIRE S-2 airtankers carry approximately 1,200 gallons of retardant • CAL FIRE C-130 airtankers (currently two in service) carry up to 4,000 gallons • USFS-contracted Large Airtankers (LATs) typically carry 2,000–4,000 gallons Given this, it is inaccurate to broadly state that helicopters carry "much less" than air tankers. Many contracted Type I helicopters now match or exceed the	CALFIRE. 2025. Contract Aircraft Assignments. Pers. Comm., John Messina, former NorCal Fire Chief CAL FIRE, 5/22/25; U.S. Department of Agriculture (USDA). 2022. Standards for Airtanker Operations. Accessed May 2025. Available at: www.fs.usda.gov/sites/default/files/2022-11/Standards-for-Airtanker-Ops.pdf.

CEC Statement	Citation	Correction	Citation
		capacity of CAL FIRE's own S-2 airtankers and in some cases approach LAT capacity.	

6 CEC's Conclusions Ignore the Environmental Baseline

An EIR must include a description of the physical environmental conditions in the vicinity of the Project. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant (Public Resources Code Section 15125).

Many of the Conditions of Certification in the Staff Assessment rely on staff's erroneous conclusions that the Project would result in significant and unavoidable impacts to biological resources, and do not reflect the reality that impacts would continue to exist whether the Project is approved or not because the site is under active timber management. Specifically, the risk of Annosus root disease (Staff Assessment p. 5.2-136), exposure to herbicides (Staff Assessment p. 5.2-134 through 135), introduction of noxious or invasive weeds (Staff Assessment p. 5.2-133 through 134), fugitive dust (Staff Assessment p. 5.2-132 through 133), and wildfire ignition (Staff Assessment p. 136) could occur with or without the Project. Furthermore, requiring surveys for gray wolves (i.e., BIO-21; Staff Assessment p. 5.2-202), which are highly secretive and intolerant of human disturbance, overlooks that human activity and timber operations have existed at the Project site long before the wolf population rebounded in Northern California. Similarly, the requirement that the Applicant maintain fuel breaks around the perimeter of the Project site to reduce the potential for fuel ignition and wildfire spread contradicts with the CEC's own assessment of the lack of utility of fuel breaks, places undue burden upon the Applicant, ignores the environmental baseline of ongoing timber operations, and triggers thousands of acres of additional vegetation removal which patently do not "substantially reduce significant effects," which is the purpose of mitigation measures under CEQA (Public Resources Code Section 21002).

7 CEC's Conclusions About Impacts to Species Are Based on Impact to Individuals and do not Meet the Definition of "Significant"

7.1 Sandhill Crane

The sandhill crane is a species of migratory wildlife and a candidate for listing under the federal Endangered Species Act. An analysis of the significance of potential impacts to sandhill crane under CEQA can be carried out under criteria (a) and (d) in CEQA's Appendix G, concerning substantial adverse effects to candidate species and migratory wildlife corridors, respectively. The discussion below relies on Western Ecosystems Technology, Inc.'s (WEST's) Sandhill Crane Risk Assessment (TN 261557).

> *(a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

Appendix G's significance criterion (a) describes a significant environmental impact as "a substantial adverse effect on…any species." According to the Endangered Species Act, "the term 'species' includes

any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." 16 USC § 1532 (16). By referring to substantial adverse effects on "species," impacts under significance criteria (a) are understood to be at a "species" or "population" level rather than at the level of the individual animal or plant.

Both CEQA and the National Environmental Policy Act (NEPA) call for agencies to direct their findings of significant biological impacts from projects to species at the population level, rather than impacts to individuals of the species. Section 21001 of the Public Resources Code indicates that a purpose of CEQA is to "prevent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self-sustaining levels and preserve for future generations representations of all plant and animal communities." CEQA Guidelines § 15065 ("Mandatory Findings of Significance") underscores that significant environmental impacts to species under CEQA are understood at the population level as opposed to impacts to individuals. Specifically, § 15065 calls for a determination of significant effect whenever there is substantial evidence to show that a "wildlife population [will] drop below [a] self-sustaining [level]," "threaten to eliminate a plant or animal community," or "substantially reduce the number or restrict the range of a [listed] species."

Projected impacts to a small number of individuals is expressly recognized under NEPA, on which CEQA is modeled, not to rise to the level of environmental "significance." See *Western Watersheds Project v. Salazar*, 993 F. Supp. 2d 1126, 1136 (C.D. Cal. 2012) (no significant impact to desert tortoise where juveniles and eggs would be destroyed by solar energy project where species in recovery unit would not be significantly affected; NEPA directs an agency to consider the degree of adverse effect on a species, not the impact on individuals of that species); see also *Environmental Protection Information Center v. U.S. Forest Service*, 451 F.3d 1005 (9th Cir. 2006) (potential harm to northern spotted owl was not significant environmental impact under NEPA based projected take of three nests or pairs of owls; significant impact is determined by the degree of adverse effect on a species, not the impact on individuals of that species); *Native Ecosystems Council v. U.S. Forest Service* (9th Cir. 2005), 428 F.3d 1233 (""[I]t does not follow that the presence of some negative effects necessarily rises to the level of demonstrating a significant effect on the environment."); *Greater Yellowstone Coalition v. Flowers*, 359 F.3d 1257, 1276 (10th Cir. 2004) ("[I]ssuance of an incidental take statement anticipating the loss of some members of a threatened species does not automatically lead to the requirement to prepare a full EIS.")

Despite this authority, some agencies have taken to finding a significant impact on the environment under CEQA whenever a project is projected to "take" individuals of a species. This is a misconstruction of the statute. The significance thresholds in Appendix G are not stated in terms of whether a project will result in the "take" one or more individual members of a species. Indeed, the courts have clarified that the purpose of CEQA is not to determine if a project will result in the "take" of individuals of a species. See *Association of Irritated Residents v. County of Madera* (2003) 107 Cal. App. 4th 1383 (CEQA neither requires a lead agency to reach a legal conclusion regarding "take" of an endangered species nor compels an agency to demand an applicant to obtain an incidental take permit from another agency). To our knowledge, no agency has formally adopted "take" of individual members of a listed species as an environmental standard to establish a threshold of significance. See CEQA Guidelines § 15064.7(d): "Any public agency may adopt or use an environmental standard as a threshold of biological significance" through a formal public review process."

"Take" of individuals of a species rarely results in the elimination of a species or a drop in population below self-sustaining levels. Indeed, if it did, the California Department of Fish and Wildlife would not routinely issue take permits for harm to individuals of a species since the issuance of take permits depends on the finding that the take will not jeopardize the species at a population level. In addition, in the rare instance in which there would a species-level impact from a single project, such an impact would rarely be significant and unavoidable, if mitigation for the impact is available.

Typically, for a project to have a population-level impact, the impacts would need to involve a substantial number of individuals and be crucial to breeding or other critical life history phases. Impacts related to potential collisions with wind turbines are discussed below. For the sandhill crane, the habitats most critical to the continued existence of the species are breeding grounds and overwintering habitat. The lesser sandhill crane breeds in Siberia, Alaska, and northern Canada and overwinters in California's Central Valley. The greater sandhill crane breeds in more southerly locations including northeastern California (east of the Project site), and also overwinters in California's Central Valley. As such, the Project site lies outside of the known breeding and overwintering ranges of both subspecies. The Project would not affect breeding or overwintering habitat for sandhill crane and would therefore **not have a population-level impact** on either subspecies. (TN 261557).

Despite what the Staff Assessment asserts (see Staff Assessment p. 5.2-267 through 269), Project turbine collisions are unlikely to be a source of mortality for sandhill cranes to a degree that would affect these birds at a species or population level. The Staff Assessment concludes that turbine collision mortality represents a significant and unavoidable impact for sandhill cranes, despite the fact that there were no sandhill cranes identified during three years of mortality studies at the nearby Hatchet Wind project or during 13,000 hours of sandhill crane use surveys over 1,305 days at five wind projects in North and South Dakota, where cranes are far more common than in the Project area. (See TN 261557). The EIR cites the few sandhill crane fatalities (four in total) associated with decades of studies at wind farms across the country as support for the species being at risk, and in spite of these four events all being single fatalities, the authors still make to the unsupported conclusion that because sandhill cranes are flocking birds, any mortality event will result in the loss of multiple birds.

The Staff Assessment's analysis of impacts to sandhill crane also inaccurately describes the openings created during Project construction (e.g., turbine pads and wider roads) as an increase in habitat for this species, then subsequently concludes that there is a greater likelihood that these "new habitats" will attract sandhill crane to the Project site during migration (Staff Assessment p. 5.2-269). In reality, cleared areas resulting from Project construction are extremely unlikely to create conditions any different from those that already exist or are continuously created through ongoing timber activities. In addition, most, if not all, clearings created by the Project would be occupied by infrastructure that would deter use by sandhill cranes, not attract use. Even if there were mortalities to individual cranes, these impacts could be mitigated.

7.2 Monarch Butterfly

Similarly, the Staff Assessment concludes that mortality from turbine collisions would have a significant and unavoidable impact on monarch butterflies (Staff Assessment p. 5.2-168 through 169). The Applicant

docketed evidence (see TN 261556) demonstrating that while monarchs typically migrate a heights up to 11,000 feet, which may be well above rotor-swept heights, monarchs may also be exposed to collision with turbine blades during lower level flights; however, the Project is not sited within overwintering habitat for this species and suitable habitat is sparse, meaning any turbine-related mortalities would likely be few and at the individual level. Not only is the EIR's conclusion not based on substantial evidence, but the analysis ignores Applicant-provided evidence noting that projected impacts to a small number of individuals are expressly recognized under NEPA, on which CEQA is modeled, *not* to rise to the level of environmental "significance."

8 CEC's Proposed Mitigation is not Roughly Proportional to the Impact

The mitigation measure must be "roughly proportional" to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994).

The mitigation measures and Conditions of Certification CEC recommends in the Staff Report are vastly disproportionate to the impact, and some are outright infeasible. See Appendix A for additional Applicant feedback. For example, the generalized application of the same mitigation measure across disparate project types and ecosystems (specifically BIO-28) demonstrates the authors' lack of appreciation for the applicability of the measures, their ability to mitigate an impact, their potential feasibility, or the proportionality to stated impacts. BIO-28 has been used more or less verbatim in at least three other Staff Assessments written by Aspen Environmental, the CEC's CEQA consultant, in the past two decades (i.e., Genesis Solar p. C.2-183, Palen Solar p. 2-32, City of Palmdale Hybrid Power Plant p. 7.1-143).

Furthermore, the extensive restoration, invasive species, and survey and monitoring requirements in most of the Conditions of Certification ("COCs") related to biological resources are disproportionate to potential impacts because they ignore ongoing and future commercial timber harvesting activities onsite or the low potential for a species to occur onsite. For example, the level of close monitoring, full vegetation restoration, detailed surveys, and meticulous equipment washing required for the Project in these measures ignores the fact that the site is a pre-disturbed, homogenous landscape rather than a pristine, isolated ecosystem.

In addition, BIO-14 (Staff Assessment p. 5.2-168) requires the preparation of an Insect Mortality and Monitoring Plan. Monarch butterflies are the sole special-status invertebrate with any risk of colliding with turbines. The expectation that the remains of an insect that small would be discoverable beneath Project turbines for any length of time much less that such remains could be proven in a statistically meaningful way to have been the result of collision with a turbine is absurd, and this requirement for effort-intensive surveys is disproportionate to the risk to monarch populations posed by the Project.

Similarly, BIO-6 requires an unprecedented and unnecessary level of effort in documenting vegetation disturbance through before-and-after aerial imagery analyses (Staff Assessment p. 5.2-318). If the goal of this action is to understand vegetation changes pre- and post-construction to inform eventual restoration, this can be achieved with a simple pedestrian survey. Data at the level of detail required by aerial imagery will do no more to achieve eventual restoration goals than the information already docketed by the

Applicant, and ignores the fact that the Project site is continuously disturbed by timber operations. Furthermore, the authors of the Staff Assessment themselves acknowledge the limitations of aerial imagery: "Staff recognizes there are limitations and challenges when mapping large areas using aerial imagery… Natural and anthropogenic processes, such as fire, flooding, or logging may result in type conversion of habitats either immediately, in cases of large destructive fires or timber harvest activities, or over a progressive period of time as habitats begin to recover" (Staff Assessment p. 5.2-28). It is illogical to require the Applicant to undertake an effort-intensive and expensive aerial survey effort to gather data which is known to be imprecise, limited, and good only for qualitative comparisons.

9 CEC's Proposed Alternatives do not Meet CEQA Requirements

Among the factors that may be used to eliminate alternatives from detailed consideration in an Staff Assessment are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts [Public Resources Code Section 15126.6(c)].

9.1 The Staff Assessment Presents an Incomplete List of Project Objectives

In its Staff Assessment, the CEC unilaterally dismisses seven of nine objectives that have been maintained continuously by the Applicant since 2020, listed again below and provided to the CEC on March 4, 2024 as TN 254794.

- Objective 1: Develop, construct, and operate a commercial wind energy generation facility capable of generating up to 216 MW of wind energy.
- Objective 2: Interconnect to the Northern California electrical grid (NP15).
- Objective 3: Locate the project in close proximity to an existing transmission line with sufficient capacity to reduce impacts and costs associated with building new transmission infrastructure.
- Objective 4: Assist California in meeting the renewable energy generation targets set in Senate Bill (SB) 100.
- Objective 5: Create temporary and permanent jobs in Shasta County and contribute to the County's tax base.
- Objective 6: Obtain entitlements to construct and operate a commercially financeable wind energy project.
- Objective 7: Support landowners through diversification of revenue streams.
- Objective 8: Offset approximately 128,000 metric tons of carbon dioxide emissions generated by fossil fuels.
- Objective 9: Provide emissions-free energy for approximately 100,000 households.

Instead, the CEC carries forward two objectives: "Assist California in meeting renewable energy generation or zero carbon targets set forth in SB 100" and "Interconnect to the Northern California electrical grid with available capacity" (Staff Assessment p. 8-6). The CEC presents little support or

justification for dismissing seven of these objectives other than its assertion that "no information has been provided to staff to indicate that there is a specific need for additional generation within the transmission system to which the proposed project would connect" (Staff Assessment p. 8-6). As one of the primary agencies in California with jurisdiction over energy generation projects and the state's electrical grid, the CEC has access to detailed information about the existing capacity, load, and demand for electricity in the Project region. In addition, the Applicant provided a detailed justification for why the Project was sited in this particular location and why other locations would not achieve Project objectives or result in a commercially feasible project (i.e., TN 250551). Using these two sources of information, the CEC could clearly and easily conclude that there are limited locations in the state where wind energy can feasibly be built, and that the proposed Project site is the location that could most fully meet all nine of the Applicant's objectives. The CEC ignored this evidence in its selection of objectives, and therefore alternatives, for the Project. Thus, the objectives carried forth in the Staff Assessment are incomplete.

9.2 The Environmentally Superior Alternative is Not a Viable Alternative

The CEC's Staff Assessment concludes that the environmentally superior alternative would be the construction of a Battery Energy Storage System (BESS) rather than a wind project (Staff Assessment p. 8-42). This chosen alternative fails to meet one of two primary Project objectives chosen by the CEC in the Staff Assessment, and meets only one of nine Project objectives identified by the Applicant. Specifically, the BESS alternative meets only the objective to "Interconnect to the Northern California electrical grid with available capacity."

A BESS does not meet the basic and fundamental Project objective to generate energy. BESS projects collect and store electrical power during times of low demand and distribute it during times of high demand. They do not generate power themselves (TN 252981) and can receive power from any generation source, renewable or non-renewable. An alternative that does not meet a basic and fundamental objective of generating energy is not a viable alternative under CEQA. See CEQA Guidelines 15126.6.

Furthermore, it is wrong to claim that BESS projects offset greenhouse gas emissions themselves (i.e., the CEC's Project objective to "Assist California in meeting…zero carbon targets set forth in SB 100")—only renewable energy projects, such as the Project, produce electricity that offsets greenhouse emissions released from fossil-fuel-based generators. The Project has been proposed in Shasta County because of the general lack of renewable energy generation facilities in the region; the addition of a BESS project without an accompanying source of renewable power would do nothing to reduce greenhouse gas emissions. To the contrary, because BESS projects require cooling, backup generators, and HVAC systems, they are actually a minor contributor to, rather than a reducer of, greenhouse gas emissions (e.g., TN 252983). Lastly, BESS systems have much higher risk of fire ignition than wind energy projects, and thus, the conclusion that a BESS would result in a less significant wildfire impact than the wind project (at least, per the standards applied in the Staff Assessment) is not rational.

Appendix A: Applicant Assessment of Mitigation Measures and Conditions of Approval

COC Text Summary	Applicant Comments for CEC
WORKER SAFETY-8. (Agreement with Shasta County Fire Department regarding funding fire protection/response infrastructure as mitigation of project-related impacts on fire protection services)	The Applicant recommends eliminating this COC. While Chapter 5.7 (Environmental Assessment; Hazards, Hazardous Materials, and Wildfire) of the Staff Assessment (EIR) does identify a significant and unavoidable impact related to aerial firefighting during operations (a conclusion the Applicant refutes), the Staff Assessment fails to provide evidence that the Project would contribute to a need for a new fire station in Shasta County. In fact, in Chapter 5.7, the Staff Assessment concludes that Project operation itself would not exacerbate wildfire risks, with the implementation of COC HAZ-7 and COC WORKER SAFETY-2, and this part of the Staff Assessment does not identify COC WORKER-SAFETY-8 as a measure that would address this impact. Impacts to aerial firefighting, identified in the Staff Assessment as significant and unavoidable, would not be addressed through the construction and staffing of a new fire station in Shasta County. The Applicant has committed to implementing wildfire-related conditions and mitigations which would significantly exceed the requirements for the Hatchet Ridge Wind Project and match those recommended in 2021 for the Fountain Wind Project. These measures include the creation of a 2.5-acre cleared area around each turbine; the installation of up to three 5,000-gallon fire tanks throughout the Project site, in locations recommended by fire authorities; and preparation of a Project-specific Fire Prevention Plan. These measures are more than adequate, and a new fire station is not warranted. Note also that Shasta County published a Fire Department Master Plan (2020-2025) during the time that the County was evaluating wildfire risks for this Project. The Plan made no mention of this Project or Hatchet Ridge Wind Project as being of particular concern from a wildfire perspective and did not assert that either project would create service shortfalls. Per Shasta County Fire Department/CAL FIRE, there have been zero responses to fire emergencies at the nearby Hatchet Wind Project site, in operation for 15 years. Additionally, in its 2021 EIR, Shasta County concluded that the Project would not result in the need for new off-site firefighting infrastructure or additional personnel. There is no basis to conclude that circumstances have changed such that the Project by itself would trigger the need for the construction of a new fire station for fire protection. For another large industrial project (Crystal Creek Aggregates expansion of mining operations, approved by the County in 2023), Shasta County determined that that the project's contribution to regional property taxes would offset its cumulative contribution to the demand for fire protection services. The same is true for the Project.
COM-1 Unrestricted Access. (Unrestricted access to the facility site and unannounced site visits at any time)	To ensure that the highest site safety standards are respected, the CPM and any CEC representatives who wish to visit the site must notify onsite staff of their planned arrival with enough notice for onsite staff to meet the CPM or CEC representatives at the one of the site entrances, so that onsite staff can escort visitors to the O&M building for safety and environmental instruction and training, and coordination with the site manager. Repsol corporate safety standards do not allow unescorted visitors to enter an active construction site. The Applicant recommends revising this measure to reflect these standards.

COC Text Summary	Applicant Comments for CEC
COM-2 Compliance Record. (Project owner shall maintain electronic copies of all project files and submittals accessible on site or alternate site)	Please specify: For hard copies: does "appraisals" refer to land appraisals? Does "all...assessments...and...studies" refer to project studies that may not be pertinent to the construction and operation of the facility (for ex., all interconnection studies)? The Applicant recommends revising this COC to refer to "environmental and natural resource impact studies pertinent to the construction, operation, and closure/decommissioning of the facility."
COM-3 Compliance Verification Submittals. (Verification lead times and compliance submittals associated with start of construction)	1. Please confirm CEC's definition for "start of construction" here and, if different, for other conditions as it is referenced. 2. Regarding the "cover letter from the project owner or an authorized agent," please confirm that this cover letter is not required to be signed by an officer of the company and may be signed by a Manager-level Project representative, and is not required to be DocuSigned or equivalent (e.g., AdobeSign). 3. Please confirm what is meant by "All report and/or plan graphics and maps shall be adequately scaled...." For example, if CEC plans to print out these graphics and maps, is it required that all graphics and maps be sized to 11"x17" at largest, or can all graphics and maps be 81/2 x 11 inches? Or is large format (24"x36") required for large-scale maps and graphics?
COM-4 Pre-Construction Matrix and Tasks Prior to Start of Construction (Project compliance matrix submittals and timing).	Where a deadline for submitting a compliance verification is not specified, please confirm that if the Applicant submits the verification at least 30 days in advance of construction that this will, in general, provide CEC with adequate time to review and provide comments, and allow the Applicant to respond to any changes required.
COM-11 Reporting of Complaints, Notices, and Citations (letter notification to property owners within one mile of the project / telephone number; complaint reporting and response procedure).	Please confirm whether the letters to property owners may be sent a minimum of 30 days prior to construction start (in this case, construction start would include mobilization/ deliveries/ staging).
COM-15: Facility Closure Planning	Please clarify what appears to be a typo under b.5.a. and b. In addition, in the context of the closure of the proposed wind Project site, what does "long-term equipment replacement" refer to? For no. 12., please provide further detail regarding how an "identification and assessment of all potential direct, indirect, and cumulative impacts and proposal of mitigation measures to reduce significant adverse impacts to a less-than-significant level" differs from the analysis presented in the EIR, which is supposed to identify the impacts of site closure and decommissioning and related mitigation measures, as well as construction and operations.
AQ-SC1 Air Quality Construction Mitigation Manager (AQCMM)	Please clarify whether "terminated" as used in the last sentence of this COC refers to termination of employment of the individual, or overall termination of air quality monitoring. If the former, the Applicant disagrees that it is within the State's jurisdiction to control the Project's hiring and firing decisions, and needs to retain control over hiring and firing decisions in order to ensure the highest site safety standards are respected. If this is the case, the Applicant recommends changing the last sentence to "The AQCMM shall not be terminated before the owner provides written notice of any plan to terminate to the Compliance Project Manager (CPM)." If necessary, the Applicant will commit to ensuring that required air quality monitoring will not be interrupted, even if the AQCMM individual needs to be terminated, even if this means hiring more than one individual to fulfill this function.

COC Text Summary	Applicant Comments for CEC
AQ-SC3 Construction Fugitive Dust Control	1. Requirement a. apparently refers to paving or otherwise stablizing roads through the facility "prior to construction," but the Applicant considers this level of roadwork to be a construction activity. Is this a misreading of this condition? Please clarify what "prior to construction" means for this condition. 2. For h., please confirm that "treated entrance roadways" means site entrances that are graveled or treated to prevent track-out to public roads. 3. For k., please note there will be no public roadways exiting the construction site (paved roadways exiting the construction site will be on private land). If appropriate, please consider re-wording to state that paved public roadways onto which construction roadways will exit will be swept per this condition (i.e., the 500 ft of public road on both sides of the construction site roadway where it exits the site shall be swept as needed). 4. Regarding o., please note that it is a Repsol corporate standard that no vegetative material is permitted to be burned onsite at any of our construction sites.
AQ-SC8 General Shasta County AQMD Provisions	1. Please clarify that the Project is not required to obtain permits from the AQMD for construction, or, if so, please confirm under what conditions an ATC permit may be required for the Project. 2. Please note, regarding Toxic Air Contaminants (TACs) (air toxics "Hot Spots") that the Staff Assessment evaluated risks from TACs and did not identify any required mitigation to address TAC impacts.
BIO-1. Designated Biologist.	Please confirm that this requirement applies to operations as well as construction and closure/decommissioning.
BIO-3. Biological Monitor(s).	Recommend excluding a requirement to include references for biological monitors, unless the monitors are "sole source" (i.e. not an employee of an established firm that conducts biological resources monitoring).
BIO-5. Worker Environmental Awareness Program (WEAP) and training.	1. If firefighting crews must be trained in the WEAP prior to entering the site, is the intent to require the owner to outreach to CALFIRE and local fire agencies to provide WEAP training in advance of any fire incidents at the site? If so, for operations, Applicant recommends training CALFIRE and local agencies every other year, and/or when a significant number of new hires (3 or more) are added to local fire agencies. 2. Recommend adding language indicating that it is preferable that WEAP training take place onsite or at a training center, and that a recorded audio/visual version of the WEAP training may be accessed by personnel who are not able to be trained in person onsite or at a training center.
BIO-6. Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP).	Aerial "before and after" photography for a site like this generally does not provide additional data that would not otherwise be captured through a pedestrian survey and photos of disturbance/restoration areas. Recommend removing this requirement.

COC Text Summary	Applicant Comments for CEC
BIO-7. Avoid Night Work, Limit Disturbance Areas, Minimize Traffic Impacts, Inspect Pipes and Trenches, Prevent Wildlife Entrapment, Relocate Wildlife, Minimize Lighting Impacts, Use Non-toxic Soil Binders, Minimize Impacts from Pest Control, Minimize Standing Water, Handling of Road-killed Animals,Minimize Spills of Hazardous Materials. materials or wastes, Remove Trash Daily, No Firearms, Minimize Disturbance Areas, Weed and Monofilament Free Wattles, Conform to APLIC Guidelines, Aviation Lighting, Herbicide Use, Minimize Stormwater Impacts.	1. BIO-7 and other COCs for biological resources listed below do not appear to take into account the baseline conditions for the site, which is actively logged. 2. Regarding limiting construction hours to 30 mins before sunset/30 mins after sunrise: this restriction, which can be found in incidental take permits issued by CDFW, may not be required to address Project impacts, and may be overly conservative, given baseline logging activities at the site, which often take place pre-sunrise to minimize fire and heat risks. Project construction and commissioning may require overnight or early morning (prior to sunrise) work - for example, installing main power transformers requires hours of continuous work (transformers are held under a vacuum that can run for 24 hours during testing). The Applicant recommends revising this requirement to reflect day-to-day construction needs for the Project. 3. For 18., regarding re-vegetation/ restoration after construction activities, a mix of native and non-native plant species may be appropriate (for ex., monarchs use common milkweed, which is not native to California, as well as other native species of milkweed). Recommend allowing a mixture of native and non-native species as reviewed and allowed by the CPM, as long as there is an ecologically sound reason to use such a mixture.
BIO-8. Habitat Restoration and Vegetation Management Plan (HRVMP or Plan).	1. Regarding re-vegetation/ restoration after construction activities and targets for native species vs non-natives, a mix of native and non-native plant species may be appropriate (for ex., monarchs use common milkweed, which is not native to California, as well as other native species of milkweed). Recommend allowing a mixture of native and non-native species, collected regionally as well as locally, as reviewed and allowed by the CPM and CDFW as needed, as long as there is an ecologically sound reason to use such a mixture. 2. Regarding 7., recommend restoration sites be monitored and maintained over a minimum 3-year period (restoration success criteria may be met within that time period). Under 10., 3. Clarify whether "native coastal scrub species" is a typo 4. Clarify whether "grassland and coastal scrub areas" should be revised to better reflect the inland forested ecosystem of the Project site
BIO-9. Integrated Weed Management Plan (IWMP) Plan.	This level of monitoring for weeds during operations is unusual and may not be needed, especially for a largely disturbed site that is already actively logged. Recommend reducing to surveying twice a year every year for the first 5 to 7 years of operation, and then weed monitoring will cease, if the owner and CPM can come to agreement that weed infestation is not an ongoing issue for the Project. This would be consistent with 10., below, where areas treated for weed infestations would be monitored for about 3 years until eradication is confirmed. Under 9.c., please specify what the "taxa indicated above" are.
BIO-11. Biological monitoring during all site mobilization, vegetation clearing, ground disturbance, construction, and any activities that have the potential to result in direct or indirect impacts to sensitive plants and wildlife; and clearance "sweeps".	Clearance surveys/sweeps prior to each day's construction start would be unusual, and may not be needed for this site which is part of an actively logged area. Recommend sweeps be performed at the beginning of the week for areas of planned disturbance and during the week only as needed (i.e., if site conditions change or if a new work area not identified at the beginning of the week will be disturbed).

COC Text Summary	Applicant Comments for CEC
BIO-12. Pre-construction surveys for special-status plants, compensation for impacts to plants.	Recommend revising to indicate that pre-construction rare plant surveys will be conducted in areas where previous rare plant surveys are 5 years old or older. CDFW 2018 protocol references the following: "In forested areas, surveys at intervals of 5 years may adequately represent current conditions", then goes on to reference timber harvest review guidance for rare plants, which states "surveys should normally be re-conducted if the site has not been surveyed in the past 5 years". As shown in the Staff Assessment, the site is low risk for rare plants.
BIO-14 Insect Mortality and Monitoring Plan (IMMP) Plan and Reporting.	This method of insect mortality monitoring appears untested in the context of an operating, large-scale wnd energy facility in the U.S., and may require a high level of effort while not providing usable data. Applicant recommends adding language to this COC to allow potential alternatives to the insect monitoring method provided here, in discussion with CEC. For the method provided here: please provide a definition for "periods of low winds" (miles per hour or meters per second). During some periods of low wind, the turbines will not be operating, so the utility of collecting insect remains during these periods would be questionable. Please also specify the suggested method for identifying insects to the species level. Please also indicate the frequency of sampling (three times a year?) and number of years this sampling should occur during operations (conducting sampling and reporting three times a year for more than a few years may prove to be a very costly way to collect data with questionable usability). Please also specify to what extent curtailment may be required if impacts to sensitive species are proven.
BIO-21. Pre- construction surveys for gray wolves and coordination with CDFW.	Given that no gray wolves have been confirmed on the site, which is within an actively logged area, some survey methods may not yield useful data - for example, camera traps are commonly installed in locations of scat, hair, or tracks were previously found; none of these have been found on the site within the last five years (one track may have been found seven years ago, but was not confirmed). The Applicant recommends confining surveys to simple pre-construction clearance surveys that focus on identification of any wolf signs and the potential presence of dens within Project construction areas. Survey plans may change if CDFW and the CPM confirm prior to construction start that evidence suggests that the probability of finding gray wolf on the site has changed (increased to a moderate or high probability).
BIO-22. Pre- construction surveys for bats, roost site removal, tree removal, bat protection and care.	These requirements may be unnecessarily excessive, given baseline conditions. The Applicant recommends the requirements for bat surveys be determined in discussion with the Applicant, and based on sound science and the existing baseline.
BIO-23 Nesting Bird Management Plan (NBMP) in coordination with CPM, CDFW, and USFWS.	Burrowing Owl is highly unlikely to occur on the Project site, which is not habitat for burrowing owl, and protocol surveys are simply not warranted. The Applicant recommends the requirements for protocol surveys for burrowing owls be deleted from this COC, and recommends the requirements for the NBMP be determined in discussion with the Applicant, and based on sound science and the existing baseline.
BIO-25. Protocol surveys for bald and golden eagles, avoid occupied nests, nest protection.	Federal guidance indicates a one- to two-mile survey buffer for bald and golden eagles is required, not a 3-mile buffer. This measure also cites outdated USFWS guidance (Pagel 2010) instead of current USFWS eagle nest survey guidance from 2020. The Applicant recommends the requirements for these surveys be determined in discussion with the Applicant, and based on sound science and the existing baseline.

RE: Applicant Comments on Staff Assessment and Environmental Impact Report for the Fountain Wind Project

COC Text Summary	Applicant Comments for CEC
BIO-27 Protocol surveys for Northern Goshawks, avoid/ protect occupied nests.	For 1.: Given the documented long-term absence of northern goshawks onsite and in the vicinity, the Applicant recommends instead to require acoustic surveys for northern goshawk to confirm probable absence within suitable nesting habitat, if construction is planned to occur during the nesting season for northern goshawk (March 1–August 31) and prior to any disturbance of forest habitats that fit the nesting criteria of northern goshawks.
BIO-28. Avian and Bat Mortality Monitoring Plan and Reporting; flight monitoring system; acoustic deterrence; adaptive management.	The requirements here are unusually expansive and may not be needed to address impacts, especially given the Project's location and low risks related to bird fatalities - for example, a minimum of five years of post-construction mortality monitoring and a full-time onsite bio monitor, in addition to Identiflight. Mortality threshold triggers lack justification and evidence. Note also that Identiflight is not currently used to identify smaller bird (non-raptor) species. In addition, the installation of an indeterminate number of acoustic bat deterrents may be excessive, especially given the required implementation of BIO-30 (increasing cut-in speed curtailment for bats). Also note that a bald and golden eagle federal take permit may not be required for the Project. The Applicant recommends revisions to reflect post-construction monitoring be conducted for a minimum of three years; and that mortality threshold triggers and mitigations/deterrents be determined in discussion with the TAC and the Applicant, and based on sound science and the existing baseline.
BIO-30. Seasonal and/or smart curtailment of the wind turbine generators (WTGs) based on seasonality and or specific wind conditions to reduce collision risk to sensitive bats.	The Applicant recommends CEC work with the Applicant to further refine a smart curtailment plan to reduce bat fatalities. The trigger of 0.85 bats/MW/year is provided without citation or justification, and may not be biologically relevant given the relative abundance of certain bat species such as Mexican free-tailed bat.
HAZ-4. Revised Notice of Proposed Construction or Alteration to the Federal Aviation Administration (FAA) reflecting the project's wind turbine and Meteorological Evaluation Tower (MET) locations, heights, and elevations.	Note, these notices are per turbine, and will not be revised notices because the Project has not submitted any of these notices yet (they are submitted at least 45 days prior to the start of construction).
HAZ-5. Ensure that project roads and driveway be properly designed and marked as listed.	Please clarify - the Applicant's interpretation of this COC is that the Project should post two address markers, one on the O&M building and one at the primary Project entrance where it meets State Highway 299 E, to ensure proper identification for visitors.
HAZ-7. Fire Prevention Plan (FPP).	1. Regarding the 5th bullet: please confirm whether this applies to Project operations as well as construction (and presumably closure/decommissioning), and please confirm the area that should be evaluated in the "analysis of fire causes" (should this area be confined to the boundary of the Project site?). 2. Regarding the 6th bullet, please note that it is a Repsol corporate standard that no vegetative material is permitted to be burned onsite at any of our construction sites.
HAZ-8. Fuel Breaks Plan (FBP).	A fuel break around the entire perimeter of the Project site is not required in any fire code, has not been a condition of approval for other projects permitted in Shasta County, and was not required for the Hatchet Ridge Wind Project (which has not experienced a fire incident in its 15 years of operation). A fuel break around the Project site boundary would also not be feasible. The Applicant recommends removing this requirement from this COC.

COC Text Summary	Applicant Comments for CEC
NOISE-4 The project design and implementation shall include appropriate noise mitigation measures adequate to ensure that operation of the project at R-4 will not cause noise levels due to power plant operation to exceed 42 dBA L_{eq} during the daytime and the nighttime hours. No new pure-tone components may be introduced. No single piece of equipment shall be allowed to stand out as a source of noise that draws legitimate complaints. When the project first achieves a sustained output of 85 percent or greater of rated capacity, the project owner shall conduct a 25-hour community noise survey at R-4. This survey during power plant operation shall also include measurement of one-third octave band sound pressure levels at the above location to ensure that no new pure-tone noise components have been introduced. If the results from the noise survey indicate that the power plant noise levels (L_{eq}) at the affected receptors exceed the above value for any given hour during the survey, mitigation measures shall be implemented to reduce noise to a level of compliance with this limit. If the results from these noise survey indicate that pure tones are present, mitigation measures shall be implemented to eliminate the pure tones.	The Staff Assessment does not address the introduction of pure tones in relation to noise impacts, and the wording of this COC is somewhat unclear, and/or not defined (i.e., "legitimate complaint" is not defined). Recommend this COC focus on ensuring Project-caused noise at R-4 will not exceed 42 dBA, and deleting "No new pure-tone components may be introduced." Also recommend the following addition to this sentence: "This survey during power plant operation shall also include measurement of one-third octave band sound pressure levels at the above location to ensure that no new pure-tone noise components above the 42 dBA level have been introduced." Also recommend the following addition to this sentence: "If the results from these noise survey indicate that pure tones are present, mitigation measures shall be implemented to eliminate the pure tones for noise levels above the 42 dBA level."
NOISE-6. Restrictions to heavy equipment operation and noisy construction work relating to any project features, including linear facilities, helicopter operation, and rock blasting.	The Applicant recommends revising this to only limit noisy construction activities (heavy equipment operation, helicopter operation, and rock blasting) located within 2,500 feet of residences to daytime hours (7:00 A.M. to 7:00 P.M.).
VIS-1. Owner shall use exterior surface coatings, colors, finishes, materials, and a gloss level that diffuse illumination or collection, reflectance and scattering offsite and skyward from the exterior surfaces of the project buildings, equipment, and structures.	This COC does not make reference to the appearance of the wind turbines, which is appropriate - please note (and/or add a note to the effect that) FAA regulations must be followed when it comes to the appearance of the turbines.
VIS-2. New outdoor light and glare from the project site shall not result in light being a pollutant offsite and skyward, "light pollution."	This COC does not make reference to lights on the wind turbines. Please note (and/or add a note to the effect that) FAA regulations must be followed when it comes to any lighting plan with respect to the Project.
WATER-8. Water supply for project construction shall be provided by Hat Creek Construction & Materials, Inc. Owner shall provide verification of a viable potable water supply prior to the start of operation.	Recommend revising the first sentence to read: "Water supply for project construction shall be provided by Hat Creek Construction & Materials, Inc. (HCC) or another water supplier if available and as approved by CEC/the CPM prior to construction start."

COC Text Summary	Applicant Comments for CEC
FOREST-1. Owner shall provide a fee payment to a land trust for the permanent conversion of 510 acres of Site Class I and II timberland at a one-to- one ratio of equivalent site classification.	The Applicant recommends eliminating this COC. Please see the docketed memo by the Applicant dated January 10, 2025 addressing forestry impacts (TN261042). The Applicant maintains that conversion of forestland associated with the Project is negligible and that there is no basis to conclude the loss of available land for commercial tree harvesting represents a significant environmental impact that requires compensatory mitigation.
FOREST-2. Owner shall reforest the 548 acres of temporarily converted timberlands, including site preparation (i.e., herbicide treatments to control competing vegetation) and planting of conifer seedlings.	Reforestation requirements should include reference to the Applicant's commitment to implementation of Shaded Fuel Breaks.