

DOCKETED	
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June 26, 2025

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Re: Fountain Wind's Response to CEC Letter Regarding Shasta County's
Reimbursement Request (TN 264344)

Dear Mr. Bohan and Mr. Babula:

We write to respond to the CEC's recent letter to Shasta County regarding the County's reimbursement requests (docketed June 17, 2025; TN 264344) ("CEC Letter"). Our firm's client, Fountain Wind, LLC ("Applicant"), appreciates the agency's review of the reimbursement documents and is mindful of the effort involved when assessing such matters.

To recap, and as CEC staff is aware, the County is seeking reimbursement for nearly \$300,000 in costs it claims are eligible for reimbursement under AB 205 and its implementing regulations. The County justifies this staggering sum by taking an expansive view of the reimbursement mechanism, including the right to broadly comment on the Fountain Wind Project ("Project"). However, by statute, the scope is narrow for reimbursement for local agencies under Public Resources Code section 25519(f) and 20 CCR 1878.1. As recognized in the CEC Letter, Section 25519(f) limits local agency review to limited direct categories that include "the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility."

Under the statute, reimbursable work does *not* include the review of other topics, such as alleged defects in the application materials, the CEC's processing of the Project, the CEC's staff assessment or EIR, the choice of alternatives, or determinations that the Project will have a net positive economic benefit or is needed for public convenience or necessity.

The CEC Letter has identified portions of four documents it considers eligible for reimbursement:

- TN 254693 2/26/2024 Shasta County Air Quality Management District Input on the Opt-in Application for Certification of the Fountain Wind Project, pp. 7-13, 19-48;
- TN 259437 10/3/2024 County of Shasta's AB 205 Review and Comments on Fountain Wind Project, pp. 2-17;
- TN 260101 11/15/2024 County of Shasta Comments on Wildfire, Economics, and Various Project Environmental Issues, pp. 2-69; and
- TN 260646 12/13/2024 County of Shasta's AB 205 Continuing Review and Additional Comments on Fountain Wind Project, pp. 1-11, 16-25.

The Applicant concedes that the identified portions of TN 254693 qualify for reimbursement. However, the Applicant does not agree that the remaining three documents – TN 259437, TN 260101, and TN 260646 – are eligible for reimbursement. Each of these documents addresses discretionary review activities conducted by the County which assert positions on matters not reasonably related to the matters that the agency is requested to review and which advocate against CEC approval of the Project. (See 20 CCR § 1878.1(b).) In effect, the County is acting like any other member of the public in submitting these comments, but Section 25519(f) is not a catch-all bucket the County can use to pass its costs (including the costs of any hired consultants) to advocate against the Project onto the Applicant.

While 20 CCR 1877(f) indicates that the CEC should provide information regarding economic benefits to the local government for review and comment, any costs associated with that review must still be reasonable. Section 1877(f) does not give the County unchecked discretion to hire consultants to provide multiple rounds of review of the Project's economic analysis and to use those consultants to advocate against the Project with a multitude of reasons far outside the statutory scope and often merely speculative. Again, the regulations expressly provide that costs associated with advocating against Commission approval of the Project are *not* reimbursable. (20 CCR § 1878.1(b).)

Finally, the Applicant emphasizes that all costs must be reasonable, and it is impossible to judge the reasonableness of any fee charged with redacted invoices. The County's level of redaction provides the CEC and Applicant no way to assess the applicability or reasonableness of the fees. The Applicant requests that the County be required to provide either unredacted invoices or reasonably redacted invoices for the CEC's and Applicant's review prior to the Applicant reimbursing any eligible fees.

Accordingly, the Applicant requests that the CEC reevaluate the scope of reimbursable activities and limit the reimbursement to the identified portions of TN 254693. The Applicant further requests that CEC require the County to provide unredacted invoices so that the CEC and the Applicant may properly determine whether the fees charged are reasonable.

Drew Bohan
Jared Babula
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Sincerely,

Cox, Castle & Nicholson LLP

A handwritten signature in blue ink, appearing to read "RH", is positioned above the name Robbie Hull.

Robbie Hull