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Fountain Wind Project Response to CEC Data Requests BIO-057, HAZ-02, HAZ2-03, HAZ2-07, HAZ2-09, LU-013, LU-016, TSD-06, and VIS-11

Zoning Code Section	Consistency Determination	Project Consistency
Section 17.08.030 (TP Zone; Uses Requiring a Use Permit)	Inconsistent due to County's prohibition on utility-scale wind projects	<p>The majority of the Project site is located in the County's Timber Production (TP) zone. Under section 17.08.030 of the County's zoning code, the erection, construction or alteration of a gas, electrical, water or communication facility, or other public improvements, in accordance with Government Code Section 51152, is allowed in the TP zone through approval of a use permit. Section 17.08.030 does not include any development standards (e.g., height, setbacks, lot coverage) that would apply to the Project.</p> <p>In its June 2021 staff report to the Planning Commission, County staff determined the Project is allowed in the TP zone with approval of a use permit. However, in 2022, the County prohibited utility-scale wind projects in all County zoning districts through the adoption of Zoning Code section 17.88.335. Accordingly, despite staff's previous consistency determination, the Project is no longer consistent with the County's zoning code.</p>
Section 17.64.040 (U Zone; Uses Requiring a Use Permit)	Inconsistent due to County's prohibition on utility-scale wind projects	<p>A small portion of the site is located in the Unclassified (U) zone. Under section 17.64.040, all uses not otherwise prohibited by law and not inconsistent with any portion of the general plan are allowed in the U zone through approval of a use permit. Section 17.64.040 does not include any development standards (e.g., height, setbacks, lot coverage) that would apply to the Project.</p> <p>In its June 2021 staff report to the Planning Commission, County staff determined the Project is allowed in the U zone with approval of a use permit. However, in 2022, the County prohibited utility-scale wind projects in all County zoning districts through the adoption of Zoning Code section 17.88.335. Accordingly, despite staff's previous consistency determination, the Project is no longer consistent with the County's zoning code.</p>
Section 17.88.100.B (Public uses, public utilities, and high voltage electrical transmission and distribution projects)	Inconsistent due to County's prohibition on utility-scale wind projects	Section 17.88.100.B. of the County's zoning code allows public utilities in all zoning districts with approval a use permit, provided that findings are made that there is not a reasonable alternative site outside of a resource district, and the impacts from the project on the resource land have been reduced to the lowest

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Section 17.02.430 (Definitions)		<p>reasonable level. Pursuant to section 17.02.430, private energy production facilities, such as the Project, are considered public utilities by the County. Section 17.88.100.B does not otherwise include any development standards (e.g., height, setbacks) that would apply to the Project.</p> <p>As provided in the County’s June 2021 staff report to the Planning Commission, the wind resource area within which the Project is located consists of an approximately 11-mile-wide swath of land that originates north of SR 299 East near the community of Big Bend and extends southwesterly to the southeast corner of the County. Land ownership within this swath consists of a mix of public and private land. The vast majority of private lands located within this swath are in resource zone districts. Lands within this swath that are not in a resource zone district consist of residentially and commercially zoned lands that are not of a size, distribution, and/or ownership pattern that would accommodate the Project. Accordingly, there is not a reasonable alternative site outside of a resource district for the Project.</p> <p>Further, the Project is proposed entirely within forested lands that are actively managed for timber production. Existing commercial and pre-commercial timber would be harvested, treated, and/or removed from the Project Site to allow development of the Project. A Timber Harvesting Plan (THP) would be drafted in accordance with requirements set forth in the Forest Practice Act (Pub. Res. Code §4582) and the Forest Practice Rules (CAL FIRE, 2019). The THP would specify the location of timber to be harvested, how it would be harvested, and environmental Best Management Practices (BMPs) that would be implemented during harvesting. Accordingly, impacts from the Project on the forestry resource land have been reduced to the lowest reasonable level.</p> <p>In its June 2021 staff report to the Planning Commission, County staff determined the Project is permissible with approval of a use permit. Based on the above facts, County staff further determined that there was not a reasonable alternative site outside of a resource district for the Project, and that</p>

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		Project impacts on timberland resources had been reduced to the lowest reasonable level. However, in 2022, the County prohibited utility-scale wind projects in all County zoning districts through the adoption of Zoning Code section 17.88.335. Accordingly, despite staff's previous consistency determination, the Project is no longer consistent with the County's zoning code.
Section 17.88.035.A (Small wind energy systems, definitions)	Not Applicable	Section 17.88.035 applies to "small wind energy systems," defined under Section 17.88.035.A as "wind energy conversion system[s] consisting of a wind turbine(s), a tower(s), and associated control or conversion electronics which will be used to reduce on-site consumption of utility electricity obtained via the electric grid or to enable on-site generation of electricity in lieu of connecting to the electric grid." This section does not apply to the Project, a utility-scale wind project designed to deliver renewable wind energy to the larger grid.
Section 17.88.035.B (Small wind energy systems, authorization)	Not Applicable	Section 17.88.035.B provides that one small wind turbine may be permitted with an administrative permit, and two or more small wind turbines may be permitted with a use permit. This section applies to small wind energy systems and, therefore, does not apply to the Project. The Project proposes up to 48 utility-scale turbines on an approximately 4,464-acre project site.
Section 17.88.035.C (Small wind energy systems, tower height)	Not Applicable	Section 17.88.035.C allows small wind tower heights of not more than 65 feet on parcels between one and five acres, and tower heights of not more than 80 feet on parcels greater than five acres, provided the proposed height does not exceed the height recommended by the manufacturer or distributor of the system. Section 17.88.035.C allows tower heights in excess of these standards with a use permit. This section applies to small wind energy systems and, therefore, does not apply to the Project. The Project proposes utility-scale wind turbines with hub heights up to 328 feet and blade tip heights up to 610 feet. The turbines would be constructed and operated in compliance with manufacturer specifications.
Section 17.88.035.D (Small wind energy systems, setbacks)	Not Applicable	Section 17.88.035.D requires small wind turbine setbacks from the property line of no less than the height of the system, provided it also complies with any applicable fire setback requirements including, but not limited to, Section 4290 of the Public Resources Code as it may be amended from time to time. This

Zoning Code Section	Consistency Determination	Project Consistency
		section applies to small wind energy systems and, therefore, does not apply to the Project. The Project proposes setbacks of 1.5 times the turbine height from publicly maintained roads and three times the turbine height from adjacent parcels containing a residence. The Project also would comply with applicable firebreak, power line, and vegetation clearance requirements.
Section 17.88.035.E (Small wind energy systems, noise)	Not Applicable	Section 17.88.035.E requires that decibel levels from small wind energy systems shall not exceed noise standards established in the Noise Element of the General Plan, except during short-term events such as utility outages and severe wind storms. This section applies to small wind energy systems and, therefore, does not apply to the Project. Regardless, please see TN 249641, at pp. 6-7, demonstrating the Project's compliance with General Plan noise standards.
Section 17.88.035.F (Small wind energy systems, FAA compliance)	Not Applicable	Section 17.88.035.F requires small wind turbines to comply with applicable FAA and State Aeronautics Act requirements. This section applies to small wind energy systems and, therefore, does not apply to the Project. Regardless, the Project received FAA Determinations of No Hazard on July 1, 2021 and an extension on January 17, 2023. The FAA determined that the turbines would not have a substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Additionally, the nearest airport to the Project site is located approximately 20 miles northeast of the Project Site, and the Project is not located within an airport land use plan. Thus, the Project would have no impact related to airport operations.
Section 17.88.035.G (Small wind energy systems, electricity consumption)	Not Applicable	Section 17.88.035.G requires applicants to demonstrate that the small wind energy system will be used for on-site electricity consumption. This section applies to small wind energy systems and, therefore, does not apply to the Project. The Project is a utility-scale wind project designed to deliver renewable wind energy to the larger grid.
Section 17.88.035.H (Small wind energy systems, location requirements)	Not Applicable	Section 17.88.035.H provides that small wind energy systems are not allowed where otherwise prohibited by any of the following: <ol style="list-style-type: none"> 1. An airport land use plan 2. The Alquist-Priolo Earthquake Fault Zoning Act 3. Scenic highway protections

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		<ol style="list-style-type: none"> 4. The terms of an open space conservation easement 5. The terms of an agricultural conservation easement 6. The terms of a Williamson Act contract 7. The listing of the site in the National Register of Historic Places or the California Register of Historical Resources <p>This section applies to small wind energy systems and, therefore, does not apply to the Project. Regardless:</p> <ol style="list-style-type: none"> 1. The Project is not located within an airport land use plan 2. No active faults are present within the Project site 3. The Project would not reduce the visual quality of views from designated or eligible scenic highways (see TN 249635, at p. 1, and TN 249636, at p. 1, regarding views from scenic highways) 4. The Project site is not subject to open space conservation easements 5. The Project site is not subject to agricultural conservation easements 6. The Project site is not subject to Williamson Act contracts 7. Based on the results of the previous analysis, the Project site contains one cultural resource that qualifies for listing in the California Register. The Project would avoid the resource, and otherwise mitigate any impacts to unknown resources discovered during construction in accordance with state law. Otherwise, the Project site is not listed in the National Register of Historic Places or the California Register of Historical Resources
Section 17.88.035.I (Small wind energy systems, agricultural land)	Not Applicable	Section 17.88.035.I includes requirements for small wind energy systems on agricultural land that may have aircraft operating at low altitudes. This section applies to small wind energy systems and, therefore, does not apply to the Project. Regardless, the Project is not located on agricultural lands that may have aircraft operating at low altitudes.
Section 17.88.335.A (Large wind energy systems, legislative findings)	Inconsistent	In 2022, the County prohibited utility-scale wind projects in all County zoning districts through the adoption of Zoning Code section 17.88.335. In April, 2023, the County again amended Zoning Code section 17.88.335 (Ordinance No. SCC 2023-01) to add various “legislative findings” regarding large wind energy projects in response to the Legislature’s adoption of the opt-in program under

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		<p>AB 205. The legislative findings declare that the construction or operation of large wind energy systems “will not have an overall net positive economic benefit to the County.” The County’s legislative findings are not supported by technical reports or studies, referring instead to public comment letters received in opposition to the Fountain Wind Project.</p> <p>The CEC may take the County’s opinion into account in deciding whether to authorize a renewable energy project under the opt-in program; however, once an application is filed, the CEC is vested with the exclusive power to certify the facility in accordance with Public Resources Code section 25545.1. Further, the CEC must independently determine, based on substantial evidence in the record, whether the Project will have an overall net positive economic benefit to the local government that would have had permitting authority over the site. Under Public Resources Code section 25545.9, the definition of “overall net positive economic benefit” includes, but is not limited to</p> <ul style="list-style-type: none"> (a) Employment growth. (b) Housing development. (c) Infrastructure and environmental improvements. (d) Assistance to public schools and education. (e) Assistance to public safety agencies and departments. (f) Property taxes and sales and use tax revenues. <p>The Applicant has submitted detailed studies demonstrating that the Project would provide substantial benefits to the County, including well-paying jobs, substantial tax revenues and other direct, indirect, and induced economic benefits. Overall, Project construction is estimated to generate 450 job years, approximately \$27 million in employee compensation, and approximately \$60 million in total economic output/sales in the County, and over the 35-year operational period the Project will provide 1,456 job years, \$90.4 million in employee compensation, and \$210.3 million in economic output/sales activity in the County. (See TN 250344). The Applicant also has prepared a community benefits program, which consists of approximately \$2,000,000 in proposed</p>

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		<p>funding to local programs supporting education, public safety, fire protection, and workforce development and was developed based on direct feedback from members of the community. (See TN 248296-2). The Project will result in additional benefits to the County and State of California, including offsetting GHG emissions generated by fossil-fuel power plants. Indeed, the Project is expected to provide a potential net offset of 227,917 MT CO₂e per year if the electricity generated by the Project were to be used in place of electricity generated by fossil-fuel sources. The applicant believes the record firmly establishes that the project would result in an overall net positive economic benefit to Shasta County.</p>
<p>Section 17.88.335.B and C (Large wind energy systems, definition and prohibition)</p>	<p>Inconsistent</p>	<p>Section 17.88.335.B defines “large wind energy systems” as wind energy conversion systems that are not identified as “small wind energy systems” (defined above). Section 17.88.335.C prohibits large wind energy systems in all County zoning districts.</p> <p>The Project qualifies as a large wind energy system as is not allowed by the County in any zoning district.</p>
<p>Section 17.88.335.D (Large wind energy systems, CEC review)</p>	<p>Inconsistent</p>	<p>Section 17.88.335.D recites various provisions of AB 205 and states that “there are more prudent and feasible means of achieving any possible public convenience and necessity than construction large wind energy systems in the unincorporated area of the County of Shasta.” However, Section 17.88.335.D does not provide any support for this statement by offering more prudent and feasible means to achieve the clean energy benefits of the Project. The statement also is inconsistent with previous statements by Shasta County planning staff regarding the Project. As provided in the County’s June 2021 staff report to the Planning Commission, the County recognized the wind resource area within which the Project is located, noting that the vast majority of private lands located within the wind resource area are in County resource zone districts (e.g., timber districts), and that lands within this wind area that are not in a resource zone district consist of residentially and commercially zoned lands that are not of a size, distribution, and/or ownership pattern that would accommodate the Project. Accordingly, County staff concluded there was not a</p>

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		<p>reasonable alternative site outside of a resource district for the Project. The County also declined to analyze an off-site alternative for the Project in its EIR, determining that the Project was consistent with the zoning and general plan designation of the land at the time of review. The CEC may consider the County's opinion as to whether there are more prudent and feasible means of achieving the public convenience and necessity of the proposed project but must ultimately make its own determination.</p> <p>Section 17.88.335.D further prohibits any County officer, agency, or department from agreeing to a community benefit agreement for large wind energy systems without the prior approval of the Board of Supervisors. By recognizing that the Board of Supervisors may approve a community benefit agreement for large wind energy systems, Section 17.88.335.D suggests that large wind energy systems may indeed result in net positive benefits for the County, despite Section 17.88.335's legislative findings. Regardless, the Applicant does not currently anticipate needing to enter into a community benefits agreement with the Board of Supervisors, as AB 205 authorizes projects to enter into such agreements with a variety of entities other than the County, including community-based organizations, such as workforce development and training organizations, labor unions, social justice advocates, California Native American tribes, or other organizations that represent community interests. See TN 248296-2, describing the Applicant's community benefits program, which consists of approximately \$2,000,000 in funding to local programs supporting education, public safety, fire protection, and workforce development and was developed based on direct feedback from members of the community.</p> <p>Finally, Section 17.88.335.D states that the County will review and comment on wind projects subject to CEC jurisdiction under AB 205. The Applicant anticipates that the CEC will consider all public comments in accordance with applicable law.</p>

Fountain Wind Project Response to CEC Data Requests HAZ-02, HAZ2-07, HAZ2-09, and SOC-021

Applicable LORS	Description	Project Consistency
California Education Code, Section 17620	The governing board of any school district is authorized to levy a fee, charge, dedication, or other requirement for the purpose of funding the construction or reconstruction of school facilities.	Consistent: The Project would pay all applicable impact fees.
California Government Code, Sections 65995-65998	Except for a fee, charge, dedication, or other requirement authorized under Section 17620 of the Education Code, state and local public agencies may not impose fees, charges, or other financial requirements to offset the cost for school facilities.	Consistent: The Project would pay all applicable impact fees.
Shasta County Development Impact Fees	The County charges various development impact fees for industrial development. See fee schedule at https://www.shastacounty.gov/sites/default/files/fileattachments/building/page/2652/2020-impact-fee-with-mini-storage.pdf	Consistent: The Project would pay all applicable impact fees.
Code of Federal regulations Title 30, Chapter VII, Subchapter K, Part 816, § 816.61 to § 816.68	Part 816 provides blasting requirements for Surface Mining Activities.	Consistent: The Project will comply with all applicable federal blasting requirements.
California Fire Code Chapter 56	Chapter 56 governs the possession, manufacture, storage, handling, sale, and use of explosives and explosive materials.	Consistent: The Project will comply with all applicable state blasting requirements.
CCR Title 8 SS 5141.1	Section 5141.1 outlines protective measures to be implemented to prevent inhalation of wildfire smoke.	Consistent: The Project will comply with all applicable state fire safety requirements.
Organized Crime Control Act of 1970, Title XI (Public Law 91-452)	The Bureau of Alcohol, Tobacco, and Firearms regulates explosives storage and commerce under Title XI of the Organized Crime Control Act.	Consistent: The Project will comply with all applicable federal blasting requirements.
Hazardous Materials Transportation Act (HMTA) 49 U.S.C. 5101 et seq.	Under the Hazardous Materials Transportation Act, the U.S. Department of Transportation regulates the storage of explosives, as well as the packaging, labeling, materials compatibility, driver qualifications, and safety of transported explosives.	Consistent: The Project will comply with all applicable federal blasting requirements.

