

**DOCKETED**

<b>Docket Number:</b>	23-OPT-01
<b>Project Title:</b>	Fountain Wind Project
<b>TN #:</b>	253508
<b>Document Title:</b>	County of Shasta Comments on Notice of Preparation of DEIR
<b>Description:</b>	N/A
<b>Filer:</b>	Claudia Peach
<b>Organization:</b>	Paul Hellman, Director of Resource Management, County of Shasta
<b>Submitter Role:</b>	Public Agency
<b>Submission Date:</b>	12/4/2023 2:10:45 PM
<b>Docketed Date:</b>	12/4/2023



# Shasta County

DEPARTMENT OF RESOURCE MANAGEMENT  
1855 Placer Street, Redding, CA 96001

Paul A. Hellman  
Director

Adam Fieseler  
Assistant Director

December 4, 2023

Leonidas Payne, Project Manager  
California Energy Commission  
715 P Street  
Sacramento, CA 95814  
[leonidas.payne@energy.ca.gov](mailto:leonidas.payne@energy.ca.gov)

**Re: Comments of the County of Shasta -- Notice of Preparation of a Draft Environmental Impact Report For the Fountain Wind Project (23-OPT-01)**

The County of Shasta (“County”) is the local government with land use and related jurisdiction over the areas of the proposed Fountain Wind Project (23-OPT-01) submitted to the California Energy Commission (“CEC”) by Fountain Wind, LLC. The Fountain Wind Project proposes construction of 48 turbines and 38 miles of new and modified access roads. Public Resources Code section 25545.8 requires the County to review the Project application and submit comments to the CEC. Accordingly, the County hereby submits the following comments on the Notice of Preparation (“NOP”) of a Draft Environmental Impact Report issued by the CEC on November 3, 2023 for the Fountain Wind Project (“County NOP Comment Letter”).

**I. Standing Reservation of Rights**

The County NOP Comment Letter is filed pursuant to the County’s Standing Reservation of Rights, filed with the CEC on September 28, 2023. This Standing Reservation of Rights details the County’s standing objection to the jurisdiction of the CEC to proceed with the application process for the Fountain Wind Project. The County is participating in this proceeding to protect its rights and advocate for its constituents, while also being responsive to the CEC’s request for review and comment with regard to the Project, but is not waiving or intending to waive the County’s Standing Reservation of Rights.

**II. The CEC Does Not Have Jurisdiction Over The Fountain Wind Project**

The Fountain Wind Project NOP states that “[t]he project is being considered under CEC’s opt-in authority established by Assembly Bill 205. The CEC is the lead agency under the California Environmental Quality Act (CEQA) for this project.” The County objects to this statement, as detailed in, and pursuant to, its August 14, 2023 submission to the CEC: “Shasta

County Opposition to AB 205 Jurisdiction”<sup>1</sup> and as detailed in, and pursuant to, its subsequent September 29, 2023 submission to the CEC: “County of Shasta Response to AB 205 Jurisdictional Comments” of September 29, 2023.<sup>2</sup>

### **III. Mandatory 30-Day Comment Period On NOP Did Not Start Until December 1, 2023**

Pursuant to Public Resources Code section 21092.3 and CEQA Guidelines section 15082(a), a notice of preparation must be posted for thirty (30) days in the office and on the website of the county clerk of the county or counties in which the project will be located. Although the NOP is dated November 3, 2023, the NOP was not submitted to the Shasta County Clerk/Registrar of Voters until November 30, 2023, *27 days later*. (See **Exhibit A**).

Given this, other than those who received the NOP directly from the CEC, no person or entity was noticed of the NOP via the County Clerk’s office until December 1, 2023 when the NOP was posted in the office of the County Clerk and on the County Clerk’s website. This unquestionably prejudiced the public’s ability to submit comments on the NOP, which states that comments must be submitted by December 4, 2023. Per Public Resources Code section 21092.3 and CEQA Guidelines section 15082(a), the mandatory 30 day public comment period regarding the NOP could not start until December 1, 2023 and must now be re-noticed to run until December 31, 2023.

### **IV. NOP Must Be Re-Issued To Notify Responsible Agencies and Re-Notice Scoping Meetings**

Per Public Resources Code section 21080.4(a) and CEQA Guidelines section 15082(a), a lead agency must send the notice of preparation to all public agencies with authority over the project or resources affected by the project. Here, the NOP states “Responsible agencies for this project are State Water Resources Control Board and Regional Water Quality Control Board.” However, the Shasta County Air Quality Management District (“AQMD”) received an August 14, 2023 application seeking an Authority to Construct/Permit to Operate with regard to a proposed backup generator for the Fountain Wind Project.

Pursuant to a November 17, 2023 email from Mary Dyas, Compliance Project Manager/Unit Supervisor for the California Energy Commission’s Siting, Transmission, and Environmental Protection Division (attached as **Exhibit B**), while CEC

certification covers all state, local, and regional agencies’ requirements necessary for a plant to be constructed...Yes, Air Quality is a bit different, and [Fountain Wind] still need to get those permits from the Air District, but the district conditions are incorporated into our conditions (matching the district conditions plus a few staff conditions). If it is an SPPE, the project developer

---

<sup>1</sup> TN251601.

<sup>2</sup> TN252452.

is responsible for securing local, state, and federal permits to construct and operate the plant.

Ms. Dyas's email was affirmed on December 1, 2023 when Joseph Hughes, STEP Acting Branch Manager, Energy Branch for the California Energy Commission, sent Paul Hellman, County Director of Resource Management, a voicemail concerning the Shasta County AQMD's permitting authority over the Project. Mr. Hughes stated:

[I]t sounded like you had a question regarding permitting for the Fountain Wind Project and the answer is yeah the Shasta County AQMD would be required to provide the Permit to Operate for the small hhm propane backup generator. Uh..I know the Regs say that the Energy Commission license is in lieu of .. you know any other state or local permits, but that's with the exception of a few technical areas and air quality is one of those. Usually, the District would issue the permits and then we fold those permitting conditions into our Energy Commission license and then that District permit also ensures that the project would conform with all local, state and federal LORS and sometimes for larger projects that uhh determination of compliance or the Permit to Operate also was in the federal requirements. I don't know if there is going to be any Title V requirements for a small engine of that size, but that's why we deal mostly with the Air District to make sure that all those requirements are met and then we would fold in the information from the District's permit into our Energy Commission license.

Given this, under Public Resources Code section 21069, the Shasta County AQMD is a discretionary permitting agency for the Project.

Per Public Resources Code section 21080.4(a) and CEQA Guidelines section 15096(b)(2), the Shasta County AQMD must now be sent a corrected copy of the NOP and must be given thirty (30) days to send a written reply specifying the scope and content of environmental information that is germane to the Shasta County AQMD's statutory responsibilities and that must be included in an EIR under the requirements of CEQA.

Until a corrected copy of the NOP is sent to the Shasta County AQMD (who has not, to date, been provided a copy of the NOP by the CEC), any scoping meeting held by the CEC with regard to the Project, such as that held on November 28, 2023, will be inadequate. This is because, per CEQA Guidelines section 15096(c), the Shasta County AQMD, as a responsible agency, is entitled to send designated representatives to attend any meetings requested by the CEC regarding the scope and content of the Project EIR and has, to date, been denied that opportunity.

## **V. Correct Completion Date For Project Application**

The NOP states that the CEC determined the Project application to be complete on October 30, 2023; however, the determination date is incorrect. As the County has previously

indicated in docketed comments, the determination of completeness was submitted to the Docket Unit after the 5:00 p.m. deadline, and pursuant to Commission regulations, should have been docketed and thereby effective on the next business day.<sup>3</sup> This error has been confirmed by the Docket Unit to the County in an email dated November 27, 2023 from the “Energy – Docket Optical System” to Kelly Lotz, Paralegal, Best Best & Krieger LLP, outside counsel to the County.<sup>4</sup> Therefore, the correct date is October 31, 2023. This is a material issue as it affects certain time periods under AB 205.

## **VI. County Comments on Notice of Preparation for Fountain Wind Project**

The County hereby submits the following comments on the NOP for consideration by the CEC in its proposed environmental review of the Fountain Wind Project. Also attached, as **Exhibit B**, please find a set of redlined corrections to the “Notice of Preparation of a Draft Environmental Impact Report For the Fountain Wind Project (23-OPT-01).”

### A. Significant and Unavoidable Environmental Impacts of the Project

As detailed in the 2021 Environmental Impact Report the County (“County Fountain Wind EIR”) prepared for the Fountain Wind Project application submitted to the County pursuant to the California Environmental Quality Act (“CEQA”), the Project will result in significant and unavoidable adverse effects to the environment. The County directs the CEC to the County’s Fountain Wind EIR, which is included in the CEC’s docket for **23-OPT-01**, and which contains substantial evidence that the Project will result in:

- Adverse effects on the visual character and visual quality of views from publicly accessible vantage points;
- Generation of particulate matter (PM10) air emissions during construction, decommissioning, and site reclamation that would result in a cumulatively considerable net increase of PM10 in the region which is in non-attainment of State ambient air quality standards for PM10;
- Significant adverse impacts to or direct mortality of bald and golden eagles during Project operations;
- Mortality and injury to raptors as a result of collisions with wind turbines and electrical transmission lines during Project operations;
- Direct mortality and injury to bats as a result of Project operations and maintenance;
- A cumulatively considerable contribution to significant cumulative impacts to avian and bat species from collision with Project infrastructure; and
- A substantial adverse change in the significance of a tribal cultural resource.

---

<sup>3</sup> TN252889, *County of Shasta Comments re Incorrect Docketed Date re Determination Complete Application for the Fountain Wind Project* (Nov. 1, 2023).

<sup>4</sup> “If the document came in anytime after 5 p.m. on a business day, the docketed date should have been changed to the next business day. In this case, it should have been docketed on 10-31-23. See Title 20, California Code of Regulations, section 1208. This was a staff error for not manually changing the docket date prior to approving the document. Unfortunately, once the document has been approved, the system puts the overlay sheet on the document and the docket staff has no way to fix the error.”

B. Significant and Unavoidable Wildfire Impacts Of the Project

In addition, the proposed Project would be located in a very high-risk fire area. The vast majority of unincorporated Shasta County are recommended for designation by the California Department of Forestry and Fire Protection as High and Very High Fire Hazard Severity Zones. Any ignition of a fire could potentially result in a very high severity incident based on fuel loading, slope, fire weather and other factors.

Indeed, in 1992, the Project area was part of the area destroyed by the Fountain Fire. The 1992 Fountain Fire was a large and destructive wildfire in the County. After igniting on August 20, 1992, the fire was driven by strong winds, outpacing firefighters for two days while exhibiting extreme fire behavior such as long-range spotting, crown fire runs, and pyrocumulonimbus clouds that generated dry lightning. The fire consumed 63,960 acres, destroyed more than 600 hundred homes, primarily in the communities of Round Mountain and Montgomery Creek along the State Route 299 corridor, and resulted in injuries to at least 11 firefighters and the deaths of three persons during salvage logging operations following the fire.

In 1992 the Fountain Fire was the third most destructive wildfire in recorded California history. At a suppression cost more than \$22 million, it was then also the most expensive fire to contain in recorded California history. At the time, the Fountain Fire was recognized not just as a major disaster, but also as a “fire of the future”. The devastation the fire left as it moved through rural communities intermingled with private timberlands, in a difficult and high-stakes environment for firefighters, made it emblematic of the challenges faced by residents and responders alike in the wildland-urban interface.

While the Fountain Fire was surpassed by later California wildfires in metrics for losses, it still remains notable for its speed, widespread destruction in multiple communities, and the long-term alteration of the landscape within its footprint. Subsequently, more destructive wildfires have occurred in Shasta County, including the 2018 Carr Fire. Many current residents in the vicinity of the Project site are Fountain Fire survivors and continue to live not only with the specter of the Fountain Fire, but survivors, and newcomers to the area, also live with the ever present concern of the potential for a severe wildfire to affect their communities in the future. The increasing severity of fire behavior and devastation of recent California wildfires keeps the risk of wildfire at the forefront of community concerns. The County accordingly prohibited large wind energy systems in July of 2022.

C. Comments Submitted to the County Regarding Significant and Unavoidable Impacts of the Project.

Based on the County’s extensive receipt of comments on the County Fountain Wind EIR, the County also submits the following comments on the NOP for consideration by the CEC in its preparation of environmental review of the Fountain Wind Project.

During the County’s preparation of the County Fountain Wind EIR, members of the Pit River Tribe (“Tribe”), whose tribal ancestral lands encompass the Project site, commented to the County that they would be immediately adversely impacted by the construction of the Project in

many ways, including: mental and physical health; land health; watershed health; ground instability that could trigger landslides; limited access to sacred waters and springs; impacts to cultural resources; and permanent damage and destruction to traditional historical areas integral to the identity of the Pit River People that could not be mitigated. These impacts would continue long after decommissioning the Project on the land. The Tribe also commented to the County that the Project would irrevocably alter mountain ridges that are sacred to the Tribe and where the Tribe would traditionally hold ceremonies and gather food. Tribal members also expressed concerns about wildfire risks.

As well, during the County's preparation of the County Fountain Wind EIR other members of the public expressed their concerns regarding the environmental impacts of the Project involving: increased wildfire risk; increased construction traffic; rock blasting impacts on wildlife; bird and bat mortality; light, air, and noise pollution; the diminishment of the aesthetic value of the mountain ridges; negative impacts on tourism and recreation; and negative impacts on property values.

The County requests that all of these topics and environmental issues be addressed by the CEC in its proposed environmental review of the Fountain Wind Project.

## **VII. The CEC Cannot Make The Findings Necessary to Approve The Fountain Wind Project**

As the NOP acknowledges, the CEC cannot approve the project unless it determines the facility is: 1) required for public convenience and necessity, and 2) that there are no more prudent and feasible means of achieving such public convenience and necessity. (Pub. Resources Code § § 25525 and 25545.8). In making the determination regarding the lack of a more prudent and feasible means to achieve the convenience and necessity of the project, the CEC must consider the impacts of the facility on the environment, consumer benefits, and electric system reliability.

The project does not conform with applicable state, local and regional standards, ordinances or laws. As discussed above, the project would have significant and unavoidable adverse impacts to the environment inconsistent with federal and state law. The project would also have significant and unavoidable wildfire impacts, and the project and its proposed wildfire mitigation does not comport with state and local wildfire prevention and firefighting standards and policies, including, but not limited to, Title 14 of the California Code of Regulations and County health and safety ordinances. In fact, based upon the project location and as analyzed in the County Fountain Wind EIR, there is no project scenario that would comport with state and local fire standards, and no mitigation that would improve ingress and egress by the public in the event of an emergency during the construction or operation of the project or with regards to aerial firefighting.

In addition, the project does not conform with the County's ordinance prohibiting large wind energy systems. No findings can be made that the project has a net positive economic benefit that outweighs the costs attributable to the project's significant and unavoidable environmental impacts, loss of Tribal cultural resources, and the increased risk of wildfire and

the loss of life and property and costs to the County and the public from such devastation. The County directs the CEC to the “County of Shasta Wind Ordinance Administrative Record,” Parts 1-8, and the facts in support of the ordinance and the economic findings made therein.<sup>5</sup> Furthermore, Fountain Wind LLC has not provided specific, timely information regarding the net economic benefits of the project but relies solely on outdated, generalized and biased data that is not reflective of Shasta County, the region, or the larger statewide wind energy industry. Fountain Wind LLC has also not provided the CEC with data regarding meeting state SB 100 targets, consumer benefits or state or regional grid reliability needs, and thus, has not demonstrated, even on the face of the application, that there is a “need” for this project.

Since the CEC has determined the application to be complete, Fountain Wind LLC should not be allowed to supplement its application on this requirement, and any staff assessment should be based on what information is submitted in the public docket and additional information provided by the public, Tribes, and the County pursuant to its AB 205 review and comment rights. The CEC should not fill in the gaps for what has not been provided by the applicant as of the time of application completion.

Lastly, the County has reviewed the CEC’s prior decisions and legal opinions on public convenience and necessity and the so-called “LORS override.” An extensive review shows that the CEC cannot make the required findings based on statutory language, relevant case law, and prior agency precedent, and importantly, the unique facts and circumstances of the project.

In preparing the staff assessment on this issue, the CEC must use and identify a threshold for renewable energy achievement, GHG reduction, consumer benefits and grid reliability that is objective, measurable and verifiable by the public as well as data that is publicly available and docketed (not just in the “project file”). The public convenience and necessity analysis must be transparent and information submitted by the applicant that is not in the docket is not.

The County reserves the right and intends to provide the CEC with all of the regional and local ordinances, standards and policies that apply to the project and additional information on the public convenience and necessity and net positive economic benefits issues as outlined in the County’s approved Revised Reimbursement Request.

Should the Project proceed, the County looks forward to reviewing the Draft EIR. Please let me know if you have any questions regarding the points above.

Sincerely,



Paul Hellman  
Director of Resource Management  
County of Shasta

---

<sup>5</sup> TN253290-1-8.



APPENDIX A

APPENDIX A

**RECEIVED**

DEC 01 2023

SHASTA COUNTY CLERK

<b>DOCKETED</b>	
<b>Docket Number:</b>	23-OPT-01
<b>Project Title:</b>	Fountain Wind Project
<b>TN #:</b>	252898
<b>Document Title:</b>	Notice of Preparation of a Draft Environmental Impact Report
<b>Description:</b>	N/A
<b>Filer:</b>	Marichka Haws
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	11/2/2023 2:10:44 PM
<b>Docketed Date:</b>	11/2/2023



**CALIFORNIA  
ENERGY COMMISSION**



## **Notice of Preparation of a Draft Environmental Impact Report For the Fountain Wind Project (23-OPT-01)**

In accordance with California Code of Regulations, title 14, section 15082, California Energy Commission (CEC) staff has prepared this Notice of Preparation (NOP) to inform the Office of Planning and Research (OPR) and each responsible and trustee agency that an Environmental Impact Report (EIR) will be prepared for the Fountain Wind Project (23-OPT-01) proposed by Fountain Wind, LLC (applicant) in unincorporated Shasta County. The project is being considered under CEC's opt-in authority established by Assembly Bill 205. The CEC is the lead agency under the California Environmental Quality Act (CEQA) for this project.

### **Project Location and Description**

The Fountain Wind Project is a proposed wind energy generation facility on approximately 2,855 acres of private, leased land in unincorporated Shasta County, California. The property is located approximately 1 mile west of the existing Hatchet Ridge Wind Project, 6 miles west of Burney, 35 miles northeast of Redding, immediately south of California State Route (Highway) 299, and near the private recreational facility of Moose Camp and other private inholdings.

The project would have a total nameplate generating capacity of up to 205 megawatts (MW). The applicant proposes to construct up to 48 turbines, each with a generating capacity of up to 7.2 MW. Associated infrastructure and facilities would include a 34.5-kilovolt overhead and underground electrical collector system to connect turbines together and to an on-site collector substation; overhead and underground fiber-optic communication lines and/or a microwave relay station; an on-site switching station to connect the project to the existing regional grid operated by the Pacific Gas and Electric Company; a temporary construction and equipment laydown area; up to nine temporary laydown areas distributed throughout the project site to temporarily store and stage materials and equipment; an operation and maintenance facility with employee parking; up to three permanent meteorological evaluation towers (METs); temporary, episodic deployment of mobile Sonic Detection and Ranging or Light Detection and Ranging systems within identified disturbance areas (e.g., at MET locations); two storage sheds; and three temporary concrete batch plants. Up to 19 miles of new access roads would be constructed within the project site, and up to 19 miles of existing roads would be improved. No new transmission lines are proposed.

For a more complete description of project facilities, construction-related activities, and associated timelines, please consult the applicant's updated project description (TN 251663, submitted August 17, 2023) available on the project's docket.

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=251663&DocumentContentId=86566>

The CEC maintains a website for this project at:

<https://www.energy.ca.gov/powerplant/wind/fountain-wind-project>

The application and related project documents are viewable by clicking the "Docket Log (23-OPT-01)" link located near the upper right corner of the project webpage. The direct link to the project docket log is:

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

### **Probable Environmental Effects of the Project**

Although the EIR will analyze the reasonably foreseeable direct, indirect, and cumulative effects of the proposed project in the topic areas specified in Appendix G of the CEQA Guidelines, and environmental justice (EJ), preliminary review of the application and other filed information indicates the following probable environmental effects:

#### Cultural and Tribal Cultural Resources

At least twenty discrete tribal cultural resources are in the proposed project site or within its viewshed. The cumulative archaeological and ethnographic evidence, and modern Native testimony presented in Shasta County's previous CEQA proceedings establish a *Native American cultural landscape*. According to members of the Pit River Tribe, trails link ridges like Hatchet Ridge to different valleys, settlements, and power places. Historical and current traditional medicine men and women travel to the power places to acquire their healing knowledge and visions. Successful vision quests at power places like Hatchet Ridge-Bunchgrass Mountain (in the project footprint) require those places to be isolated and tranquil, with sweeping natural vistas. Trails provide egress to hunting and plant-gathering areas, as well as to homes or trading partners. All these features of a cultural landscape coalesce in the Montgomery Creek drainage where the applicant proposes to build the project. Modern tribal communities retain their lengthy and intimate connection to this place and claim continuity of use today. In addition, over 20 known artifact and burial sites have been located in the area during planning work, which supports the conclusion that the region is rife with physical evidence of historical and cultural connection,

including numerous instances of found human remains, the disturbance of which is probable.

Mitigation for some found artifacts and burial sites is possible, but would not reduce the severity of impacts to a less-than-significant level for CEQA purposes.

#### Wildfire

Wildfire is a significant concern and public safety issue in California and locally. 21 years ago, the Fountain Fire, a significant damaging wildfire, burned through the area and destroyed more than 600 structures and indirectly lead to three deaths. A considerable number of documents addressing wildfire have been submitted to the docket from multiple sources. Staff's preliminary assessment indicates that the project would have significant impacts and potentially have unmitigable impacts on wildfire.

Three features of the project increase the risk of and potentially the severity of wildfires. First, the project creates open areas on ridgetops that allow wind to exacerbate fire risk to the exposed trees. Second, introducing fire sources such as electrical components (nacelles, electrical lines), and workers and associated equipment into the environment could create sparks and/or be a source of ignition in remote areas. Third, the project would introduce significant limitations on aerial firefighting abilities to aid in controlling and reducing the intensity of wildfires in the project area due to the spacing and height of the proposed remote turbines (over 600 feet tall).

Aerial firefighting uses several types of aerial firefighting assets including large and small fixed wing planes and helicopters; however, the use of these assets would be limited within the project area due to the presence and layout of the turbines. With the project layout, there are no clear straight paths for firefighting planes to fly across/through the project area and aerial firefighting would be primarily limited to small areas along the edge of the project site and areas outside the perimeter of the project. The ability of the California Department of Forestry and Fire Protection (CalFire) to use firefighting planes or helicopters within the project site during wildfires would be further dependent on other considerations such as fire conditions, wind, and topography that would increase the hazards related to the presence of the turbines. CalFire does not fly aerial firefighting craft within a minimum of 500 feet vertically or horizontally of turbine structures; for safety, this minimum distance would be increased, potentially significantly, during fires based on site and fire conditions.

Although the project will increase access to the project site area for ground-based firefighting, the limits on use of aerial firefighting assets within the project site would hamper the effectiveness of firefighting activities. The testimony from Shasta County's CEQA proceedings, the applicant's Opt-in application, and comment letters submitted to the CEC present conflicting assessment of the significance of the additional wildfire risk the project represents, but there is substantial evidence to support the finding of significant impacts. CEC staff is currently coordinating with regional CalFire experts to discuss CalFire's perspective on the wildfire risk from the project turbines and other project features, and how effective proposed or other potential mitigation would be in the event of a wildfire.

#### Visual Resources

The aesthetic effects of the Fountain Wind Project are being assessed from nine, representative Key Observation Points (KOPs) at eight different locations, ranging from nearby viewing locations on Highway 299 in Hatchet Mountain Pass (approximately 0.5 to 0.75 mile distant; KOPs 4a and 4b) to moderate distance views (3 to 8 miles) from local mountain communities including Round Mountain, Montgomery Creek, and Burney (KOPs 2, 3a/3b, and 5a/5b respectively) (TN 250566). More distant regional views (approximately 18.5 to 28.5 miles) are from the Pit River Overlook (KOP 6) and the City of Redding (KOP 7) (TN 248320-8). Based on an assessment of project-induced visual contrast, structural dominance, and view blockage or impairment, it is expected that the project's overall visual change is likely to result in significant impacts.

It is anticipated that project turbines and the eastern access road would substantially degrade the existing visual character and quality of public views of the site and its surroundings when seen from portions of Highway 299 through Hatchet Mountain Pass as documented in the visual simulations prepared for KOPs 4a and 4b. It is anticipated that these impacts would potentially be significant and unmitigable.

#### Biological Resources

Staff anticipates significant adverse impacts to or direct mortality of *bald and golden eagles* during project operations. Staff also anticipates significant adverse impacts due to mortality and injury to raptors as a result of collisions with wind turbines and electrical transmission lines during project operations. The United States Fish and Wildlife Service has advised the applicant to obtain a take permit for bald and golden eagles based on the potential for the take of these species.

Inconsistency with local ordinance

Effective August 11, 2022, Shasta County Code section 17.88.335 prohibits any wind generation electric system not allowable under the small wind ordinance, which allows a single turbine per 5 acres for the electrical use of the service property only, not for sale to the grid, and not to exceed 65 feet in height.

Section 17.88.335 was amended March 14, 2023, to add to the Legislative Findings in support of the Ordinance that "In light of the [impacts to biological, visual aesthetic, wildfire safety, historical, cultural, and tribal interests], the construction of large wind energy systems will not have an overall net positive economic benefit to the County of Shasta. The listed impacts outweigh any potential economic benefits to the County that may be available from such large wind energy systems." Also, subdivision (f) of the revised ordinance states that no County officer, agency, or department is authorized to agree to any community benefits agreement for large wind energy systems without the prior approval of the Board of Supervisors.

As currently proposed, the project is inconsistent with the Shasta County zoning prohibition against large scale wind. Therefore, the CEC cannot approve the project unless the CEC determines the facility is: 1) required for public convenience and necessity, and 2) that there are no more prudent and feasible means of achieving such public convenience and necessity. (Pub. Resources Code § § 25525 and 25545.8). In making the determination regarding the lack of a more prudent and feasible means to achieve the convenience and necessity of the project, the CEC must consider the impacts of the facility on the environment, consumer benefits, and electric system reliability.

**Responsible and Trustee Agencies**

Pursuant to the CEQA Guidelines (Cal. Code of Regs, tit. 14, § 15082(b)), each responsible and trustee agency and the OPR shall provide the CEC with specific detail about the scope and content of the environmental information related to the responsible or trustee agency's area of statutory responsibility that must be included in the draft EIR. At a minimum, the response shall identify:

- the significant environmental issues and reasonable alternatives and mitigation measures that the responsible or trustee agency, or the OPR will need to have explored in the draft EIR; and
- whether the agency will be a responsible agency or trustee agency for the project.

Responsible agencies for this project are State Water Resources Control Board and Regional Water Quality Control Board. The only trustee agency identified for this project is the California Department of Fish and Wildlife. **Responses to this NOP are due to CEC within 30 days of receipt of the NOP.**<sup>1</sup> Based on comments received by public agencies on the scope and content of the environmental impact report, CEC staff may request additional information from the applicant to address such comments.

### **Submitting Comments**

Responding agencies may submit comments electronically. To use CEC's electronic commenting feature, go to CEC's webpage for this proceeding, cited above, click on the "Submit eComment" link, and follow the instructions in the online form. Be sure to include the project name in your comments. Once filed, you will receive an email with a link to them and the comments will be part of the proceeding's public record.

Interested parties may also subscribe via the project webpage (linked above) to receive electronic notices of all project-related activities and documents related to CEC's evaluation of the application—look for the box with the words "SUBSCRIBE FOUNTAIN WIND PROJECT" to add your subscription email. Alternatively, you can go to CEC's subscription page (<https://www.energy.ca.gov/subscriptions>) under "Power Plants Licensing and Projects" and check the "Fountain Wind Project" box under "Projects Under Review Topics."

### **Project Scoping**

The next required event in the process will be a public informational/scoping meeting to be held near the project site, and within 30 days of CEC's determination of completeness on October 30, 2023. CEC expects this event will occur during the final week of November, pending confirmation of a venue and the availability of key participants. The informational/scoping meeting will be noticed via the project docket at least 10 days prior to its occurrence and will contain information specific to the public meeting and how to participate.

---

<sup>1</sup> If a responsible or trustee agency, or the OPR fails by the end of the 30-day period to provide CEC with either a response to the notice or a well-justified request for additional time, CEC staff will presume that none of those entities have a response to make.



Fountain Wind Project  
Notice of Preparation of a DEIR  
Page 7

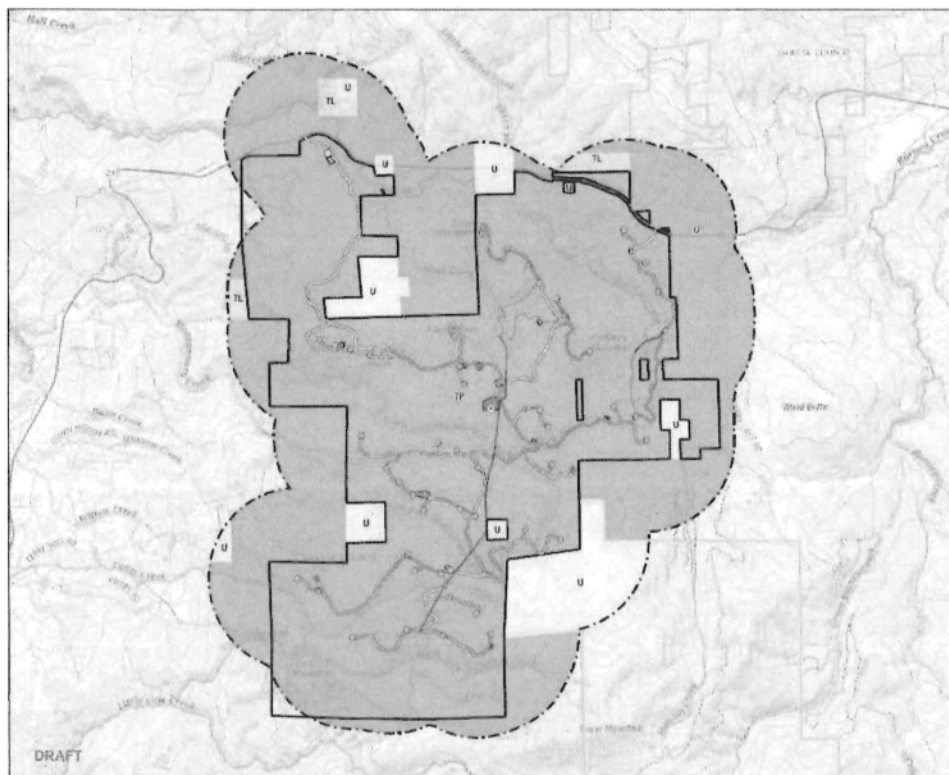
If you have any questions or need additional information on how to participate in CEC's review of the proposed project, please contact Leonidas Payne, Project Manager, by email to [leonidas.payne@energy.ca.gov](mailto:leonidas.payne@energy.ca.gov).

Attachments:

1. Overhead View--Project Area, Nearby Communities, and Hatchet Wind Project
2. Project Facilities and Project Area Land Uses



Fountain Wind Project  
 Notice of Preparation of a DEIR  
 Page 9



- Legend**
- Turbine Location
  - Met Tower Location
  - Stepdown Tower Location
  - Storage Shed Location
  - Overhead Collection
  - Underground Collection
  - Access Road
  - Wash Plant
  - O&M Facility
  - Staging Area
  - Substation/Switchyard Site
  - Project Area
  - 1 mile from the Project Site
  - Shasta County Zoning
    - Timberland District (TL)
    - Timber Production District (TP)
    - Unassisted District (U)



Graphic Scale: 1" = 1 Mile  
 (Graphic Element size of 1/16" = 100 Feet)

**Notes:**  
 1. All data were obtained from the 2011 Aerial Imagery collected in 2010 and 2011.  
 2. Land Use Data were obtained from the 2011 Aerial Imagery.  
 3. The map is for informational purposes only.



**PROJECT LOCATION:**  
 Project Name: Fountain Wind Project  
 Location: Clear Mountain, Shasta County, CA  
 Project Number: 10-100-0000  
 Revision: 01-10-2010  
 Date: 01-10-2010

**Scale:**  
 1" = 1 Mile  
 Zoning: TL  
 Status: DRAFT

# APPENDIX B

# APPENDIX B

**From:** [Hilliard, Jon@Energy](mailto:Jon.Hilliard@energy.ca.gov)  
**To:** [Paul Hellman](mailto:Paul.Hellman@energy.ca.gov)  
**Subject:** FW: Question on Fountain Wind/ Licensing/ permits  
**Date:** Thursday, November 17, 2022 2:38:20 PM  
**Attachments:** [image001.png](#)

---

**EXTERNAL SENDER:** Do not follow links or open attachments unless you recognize the sender and know the content is safe.

---

Paul – answer is below. CEC’s license for certification includes all local, regional and state permits, except AQ from the local Air District.

---

**From:** Dyas, Mary@Energy <[Mary.Dyas@energy.ca.gov](mailto:Mary.Dyas@energy.ca.gov)>  
**Sent:** Thursday, November 17, 2022 2:02 PM  
**To:** Hilliard, Jon@Energy <[jon.hilliard@energy.ca.gov](mailto:jon.hilliard@energy.ca.gov)>  
**Subject:** Re: Question on Fountain Wind/ Licensing/ permits

Yes. Energy Commission certification covers all state, local, and regional agencies’ requirements necessary for a plant to be constructed. The Energy Commission also coordinates its review with federal agencies that will be issuing permits.

Yes, Air Quality is a bit different, and they still need to get those permits from the Air District, but the district conditions are incorporated into our conditions (matching the district conditions plus a few staff conditions).

If it is an SPPE, the project developer is responsible for securing local, state, and federal permits to construct and operate the plant.

**Mary Dyas | Compliance Project Manager | Unit Supervisor**  
California Energy Commission  
Siting, Transmission, and Environmental Protection Division  
Safety and Reliability Branch  
Compliance Monitoring and Enforcement Unit  
715 P Street, MS-2000, Sacramento, CA 95814  
Work/Cell: (916) 628-5418  
Email: [mary.dyas@energy.ca.gov](mailto:mary.dyas@energy.ca.gov)

---

**From:** Hilliard, Jon@Energy <[jon.hilliard@energy.ca.gov](mailto:jon.hilliard@energy.ca.gov)>  
**Sent:** Thursday, November 17, 2022 1:11 PM  
**To:** Dyas, Mary@Energy <[Mary.Dyas@energy.ca.gov](mailto:Mary.Dyas@energy.ca.gov)>  
**Subject:** Question on Fountain Wind/ Licensing/ permits

Mary – I had a question from Shasta County that I am not 100% sure on. Does the CEC also subsume all local permitting (Grading, construction, site improvements, etc. excluding AQ) for the facility, if it gets licensed through our process?

Jon R. Hilliard, A.I.C.P.  
Biological Resources Supervisor  
916-661-8174 (Cell)  
707-266-6844 (Google phone)  
715 P Street, MS-40, Sacramento, CA 95814, or

Direct Mail: 273 Peach Tree, VV, CA 95688



# APPENDIX C

# APPENDIX C

## **Notice of Preparation of a Draft Environmental Impact Report For the Fountain Wind Project (23-OPT-01)**

In accordance with California Code of Regulations, title 14, section 15082, California Energy Commission (CEC) staff has prepared this Notice of Preparation (NOP) to inform the Office of Planning and Research (OPR) and each responsible and trustee agency that an Environmental Impact Report (EIR) will be prepared for the Fountain Wind Project (23-OPT-01) proposed by Fountain Wind, LLC (applicant) in unincorporated Shasta County. The project is being considered under CEC's opt-in authority established by Assembly Bill 205. The CEC is the lead agency under the California Environmental Quality Act (CEQA) for this project.

### **Project Location and Description**

The Fountain Wind Project is a proposed wind energy generation facility on approximately 2,855 acres of private, leased land in unincorporated Shasta County, California. The property is located approximately 1 mile west of the existing Hatchet Ridge Wind Project, 6 miles west of Burney, 35 miles northeast of Redding, immediately south of California State Route (Highway) 299, and near the private recreational facility of Moose Camp and other private inholdings.

The project would have a total nameplate generating capacity of up to 205 megawatts (MW). The applicant proposes to construct up to 48 turbines, each with a generating capacity of up to 7.2 MW. Associated infrastructure and facilities would include a 34.5-kilovolt overhead and underground electrical collector system to connect turbines together and to an on-site collector substation; overhead and underground fiber-optic communication lines and/or a microwave relay station; an on-site switching station to connect the project to the existing regional grid operated by the Pacific Gas and Electric Company; a temporary construction and equipment laydown area; up to nine temporary laydown areas distributed throughout the project site to temporarily store and stage materials and equipment; an 7,000-square-foot operation and maintenance facility with employee parking and storage yard within an approximately 5-acre fenced area; up to three permanent meteorological evaluation towers (METs); temporary, episodic deployment of mobile Sonic Detection and Ranging or Light Detection and Ranging systems within identified disturbance areas (e.g., at MET locations); two storage sheds; a 107-bhp propane-powered backup generator and 65-gallon fuel storage tank; an onsite wastewater treatment system; one or more domestic water wells; a water storage tank; and three temporary concrete batch plants. Up to 19 miles of new access roads would be constructed within the project site, and up to 19 miles of existing roads would be improved. No new transmission lines are proposed.

For a more complete description of project facilities, construction-related activities, and associated timelines, please consult the applicant's updated project description (TN 251663, submitted August 17, 2023) available on the project's docket.

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=251663&DocumentContentId=86566>

The CEC maintains a website for this project at:



<https://www.energy.ca.gov/powerplant/wind/fountain-wind-project>

The application and related project documents are viewable by clicking the “Docket Log (23-OPT-01)” link located near the upper right corner of the project webpage. The direct link to the project docket log is:

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

### **Probable Environmental Effects of the Project**

Although the EIR will analyze the reasonably foreseeable direct, indirect, and cumulative effects of the proposed project in the topic areas specified in Appendix G of the CEQA Guidelines, and environmental justice (EJ), preliminary review of the application and other filed information indicates the following probable environmental effects:

#### **Cultural and Tribal Cultural Resources**

At least twenty discrete tribal cultural resources are in the proposed project site or within its viewshed. The cumulative archaeological and ethnographic evidence, and modern Native testimony presented in Shasta County’s previous CEQA proceedings establish a *Native American cultural landscape*. According to members of the Pit River Tribe, trails link ridges like Hatchet Ridge to different valleys, settlements, and power places. Historical and current traditional medicine men and women travel to the power places to acquire their healing knowledge and visions. Successful vision quests at power places like Hatchet Ridge-Bunchgrass Mountain (in the project footprint) require those places to be isolated and tranquil, with sweeping natural vistas. Trails provide egress to hunting and plant-gathering areas, as well as to homes or trading partners. All these features of a cultural landscape coalesce in the Montgomery Creek drainage where the applicant proposes to build the project. Modern tribal communities retain their lengthy and intimate connection to this place and claim continuity of use today. In addition, over 20 known artifact and burial sites have been located in the area during planning work, which supports the conclusion that the region is rife with physical evidence of historical and cultural connection, including numerous instances of found human remains, the disturbance of which is probable.

Mitigation for some found artifacts and burial sites is possible, but would not reduce the severity of impacts to a less-than-significant level for CEQA purposes.

#### **Wildfire**

Wildfire is a significant concern and public safety issue in California and locally. ~~21~~ 31 years ago, the Fountain Fire, a significant damaging wildfire, burned 64,000 acres in the communities of Montgomery Creek and Round Mountain, through including the project site, area and destroyed more than 600 structures, including 330 homes, and indirectly lead to three resulted in injuries to at least 11 firefighters and the deaths of three persons during salvage logging operations following the fire. A considerable number of documents addressing wildfire have been submitted to the docket from multiple sources.

Staff's preliminary assessment indicates that the project would have significant impacts and potentially have unmitigable impacts on wildfire.

Three features of the project increase the risk of and potentially the severity of wildfires. First, the project creates open areas on ridgetops that allow wind to exacerbate fire risk to the exposed trees. Second, introducing fire sources such as electrical components (nacelles, electrical lines), and workers and associated equipment into the environment could create sparks and/or be a source of ignition in remote areas. Third, the project would introduce significant limitations on aerial firefighting abilities to aid in controlling and reducing the intensity of wildfires in the project area due to the spacing and height of the proposed remote turbines (over 600 feet tall).

Aerial firefighting uses several types of aerial firefighting assets including large and small fixed wing planes and helicopters; however, the use of these assets would be limited within the project area due to the presence and layout of the turbines. With the project layout, there are no clear straight paths for firefighting planes to fly across/through the project area and aerial firefighting would be primarily limited to small areas along the edge of the project site and areas outside the perimeter of the project. The ability of the California Department of Forestry and Fire Protection (CalFire) to use firefighting planes or helicopters within the project site during wildfires would be further dependent on other considerations such as fire conditions, wind, and topography that would increase the hazards related to the presence of the turbines. CalFire does not fly aerial firefighting craft within a minimum of 500 feet vertically or horizontally of turbine structures; for safety, this minimum distance would be increased, potentially significantly, during fires based on site and fire conditions.

Although the project will increase access to the project site area for groundbased firefighting, the limits on use of aerial firefighting assets within the project site would hamper the effectiveness of firefighting activities. The testimony from Shasta County's CEQA proceedings, the applicant's Opt-in application, and comment letters submitted to the CEC present conflicting assessment of the significance of the additional wildfire risk the project represents, but there is substantial evidence to support the finding of significant impacts. CEC staff is currently coordinating with regional CalFire experts to discuss CalFire's perspective on the wildfire risk from the project turbines and other project features, and how effective proposed or other potential mitigation would be in the event of a wildfire.

Fires originating at wind turbine nacelles, resulting from internal mechanical or electrical malfunctions or from lightning strikes, which are not fully extinguished by the proposed automatic fire extinguishing systems due to system failure have the potential to result in wildfires. Such wildfires could spread beyond the project site and could potentially result in the loss of life and property. The potential for such impacts to result would be exacerbated in the event nacelles are constructed of fiberglass or other flammable material.

Evacuation routes are extremely limited in the project area and immediate surrounding areas. Oversize vehicles transporting turbine blades and other materials during construction and decommissioning have the potential to significantly impede emergency vehicle access to the project area and immediate surrounding areas and the evacuation of area residents during a wildfire.

## Visual Resources

The aesthetic effects of the Fountain Wind Project are being assessed from nine, representative Key Observation Points (KOPs) at eight different locations, ranging from nearby viewing locations on Highway 299 in Hatchet Mountain Pass (approximately 0.5 to 0.75 mile distant; KOPs 4a and 4b) to moderate distance views (3 to 8 miles) from local mountain communities including Round Mountain, Montgomery Creek, and Burney (KOPs 2, 3a/3b, and 5a/5b respectively) (TN 250566). More distant regional views (approximately 18.5 to 28.5 miles) are from the Pit River Overlook (KOP 6) and the City of Redding (KOP 7) (TN 248320-8). Based on an assessment of project-induced visual contrast, structural dominance, and view blockage or impairment, it is expected that the project's overall visual change is likely to result in significant impacts.

It is anticipated that project turbines and the eastern access road would substantially degrade the existing visual character and quality of public views of the site and its surroundings when seen from portions of Highway 299 through Hatchet Mountain Pass as documented in the visual simulations prepared for KOPs 4a and 4b. It is anticipated that these impacts would potentially be significant and unmitigable.

## Biological Resources

Staff anticipates significant adverse impacts to or direct mortality of *bald and golden eagles, raptors, California spotted owl, waterfowl, sandhill cranes, nesting songbirds and bats* during project operations as well as potentially significant impacts during construction and decommissioning. Staff also anticipates significant adverse impacts due to mortality and injury to raptors, eagles, California spotted owl, waterfowl, sandhill cranes, nesting songbirds and bats as a result of collisions with wind turbines and electrical transmission lines during project operations. The United States Fish and Wildlife Service has advised the applicant to obtain a take permit for bald and golden eagles based on the potential for the take of these species.

The project has the potential to result in significant impacts to aquatic and semi-aquatic species, terrestrial mammals, sensitive vegetation communities, riparian habitats and wetlands during site preparation and construction, operations and maintenance, and decommissioning.

## Inconsistency with local ordinance

Effective August 11, 2022, Shasta County Code section 17.88.335 prohibits any wind generation electric system not allowable under the small wind energy systems ordinance, which allows ~~a single~~ one or more wind turbines per 5 acres for the electrical use of the service property only, and not for sale to the grid, and not to exceed 65 feet in height subject to the approval of an administrative permit or use permit depending upon the number of turbines and tower height.

Section 17.88.335 was amended March 14, 2023, to add to the Legislative Findings in support of the Ordinance that "In light of the [impacts to biological, visual aesthetic, wildfire safety, historical, cultural, and tribal interests], the construction of large wind energy systems will not have an overall net positive

economic benefit to the County of Shasta. The listed impacts outweigh any potential economic benefits to the County that may be available from such large wind energy systems.” Also, subdivision (f) of the revised ordinance states that no County officer, agency, or department is authorized to agree to any community benefits agreement for large wind energy systems without the prior approval of the Board of Supervisors.

As currently proposed, the project is inconsistent with the Shasta County zoning prohibition against large ~~scale~~ wind energy systems. Therefore, the CEC cannot approve the project unless the CEC determines the facility is: 1) required for public convenience and necessity, and 2) that there are no more prudent and feasible means of achieving such public convenience and necessity. (Pub. Resources Code § § 25525 and 25545.8). In making the determination regarding the lack of a more prudent and feasible means to achieve the convenience and necessity of the project, the CEC must consider the impacts of the facility on the environment, consumer benefits, and electric system reliability.

### **Responsible and Trustee Agencies**

Pursuant to the CEQA Guidelines (Cal. Code of Regs, tit. 14, § 15082(b)), each responsible and trustee agency and the OPR shall provide the CEC with specific detail about the scope and content of the environmental information related to the responsible or trustee agency’s area of statutory responsibility that must be included in the draft EIR. At a minimum, the response shall identify:

- the significant environmental issues and reasonable alternatives and mitigation measures that the responsible or trustee agency, or the OPR will need to have explored in the draft EIR; and
- whether the agency will be a responsible agency or trustee agency for the project.

Responsible agencies for this project are State Water Resources Control Board and Regional Water Quality Control Board and the Shasta County Air Quality Management District. The only trustee agency identified for this project is the California Department of Fish and Wildlife. **Responses to this NOP are due to CEC within 30 days of receipt of the NOP.** Based on comments received by public agencies on the scope and content of the environmental impact report, CEC staff may request additional information from the applicant to address such comments.

### **Submitting Comments**

Responding agencies may submit comments electronically. To use CEC’s electronic commenting feature, go to CEC’s webpage for this proceeding, cited above, click on the “Submit eComment” link, and follow the instructions in the online form. Be sure to include the project name in your comments. Once filed, you will receive an email with a link to them and the comments will be part of the proceeding’s public record.

Interested parties may also subscribe via the project webpage (linked above) to receive electronic notices of all project-related activities and documents related to CEC’s evaluation of the application—

look for the box with the words “SUBSCRIBE FOUNTAIN WIND PROJECT” to add your subscription email. Alternatively, you can go to CEC’s subscription page (<https://www.energy.ca.gov/subscriptions>) under “Power Plants Licensing and Projects” and check the “Fountain Wind Project” box under “Projects Under Review Topics.”

### **Project Scoping**

The next required event in the process will be a public informational/scoping meeting to be held near the project site, and within 30 days of CEC’s determination of completeness on October 30, 2023. CEC expects this event will occur during the final week of November, pending confirmation of a venue and the availability of key participants. The informational/scoping meeting will be noticed via the project docket at least 10 days prior to its occurrence and will contain information specific to the public meeting and how to participate.

If you have any questions or need additional information on how to participate in CEC’s review of the proposed project, please contact Leonidas Payne, Project Manager, by email to [leonidas.payne@energy.ca.gov](mailto:leonidas.payne@energy.ca.gov).

Attachments:

1. Overhead View—Project Area, Nearby Communities, and Hatchet Wind Project
2. Project Facilities and Project Area Land Uses