

DOCKETED	
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Project Title:	Fountain Wind Project
TN #:	262707
Document Title:	FWP Objection to County Invoice Reimbursement #3
Description:	N/A
Filer:	Caitlin Barns
Organization:	Stantec Consulting Services, Inc.
Submitter Role:	Applicant Consultant
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April 16, 2025

Drew Bohan
Executive Director
California Energy Commission
715 P Street
Sacramento, CA 95814

Paul Hellman
Director of Resource Management
Shasta County
1855 Placer Street
Redding, California 96001

Re: Fountain Wind's Objections to Shasta County Invoice Reimbursement Request #3
(TN 262646; docketed April 10, 2025)

Dear Mr. Bohan and Mr. Hellman:

This firm represents the applicant Fountain Wind, LLC ("Fountain" or "Applicant"). We write to object to Shasta County's Invoice Reimbursement Request #3, docketed April 10, 2025 (TN 262646), and seeking \$35,973.13 (referred to herein as "Reimbursement Request #3"). This objection is filed pursuant to 20 CCR sections 1878.1(c)(4), (d)(3).

Reimbursement Request #3 follows two previous County reimbursement requests (TN 260946 and TN 261499), which combined requested approximately \$260,000 from the Applicant. With Reimbursement Request #3, the County now seeks reimbursement for nearly \$300,000 in costs it claims are eligible for reimbursement under AB 205 and its implementing regulations. However, like its previous reimbursement requests, Reimbursement Request #3 fails to provide any explanation for why these costs are eligible for reimbursement, and it fails to provide any support for the claimed fees and expenses. Fountain therefore incorporates by reference and reasserts the objections stated in its January 16, 2025, letter objecting to County Reimbursement Request #1 (TN 261108), and its February 6, 2025, letter objecting to County Reimbursement Request #2 (TN 261574). Fountain similarly requests that the CEC reject Reimbursement Request #3.

I. Reimbursement Request #3 Seeks Reimbursement for Ineligible Costs

As discussed in Fountain's previous objections, the scope of County activities eligible for reimbursement is narrow and must either relate to permit and impact fees or fees for actions that perform a "service" that is "directly in response to Commission requests for review."

In its first reimbursement request, the County sought reimbursement for alleged fees and costs associated with eight broad categories. Reimbursement Request #3 seeks further reimbursement for purported activities associated with four of those eight categories, including:

- Category 2: Applicant docket submittals related to its application requirements;
- Category 4: Overall net positive economic benefit;
- Category 6: Impacts to biological resources, habitat, species, cultural resources, tribal cultural resources, and wildfire;
- Category 8: Public convenience and necessity for the project.

As discussed in detail in Fountain's previous objections, Categories 4, 6, and 8 are beyond the scope of Public Resources Code sections 25519(f) and 25538 and 20 CCR 1878.1, or previously were deemed ineligible by Commission staff. Further, these topics amount to advocacy positions regarding the merits of the Project, and costs associated with those comments are not reimbursable. All costs associated with these categories should be denied.

While Fountain concedes that reasonable fees associated with comments on the application materials (Category 2) may be reimbursable, it is impossible for Fountain or the CEC to evaluate the reasonableness of the fee requested, as the invoices are redacted. Further, the redacted invoice associated with Category 2 is dated January 23, 2025, yet there are no documents submitted by the County after that date which relate to any application materials. Thus, it is unclear what service was provided to the CEC for the work associated with that invoice.

Finally, the dates associated with the invoices support the conclusion that no service has been provided and that reimbursement should be rejected. The invoices state that they are for work conducted in December 2024 through February 2025. However, the County did not post anything to the docket in February 2025, and the only documents the County posted in January 2025 were its two previous reimbursement requests. The County is not authorized to seek reimbursement for the time it took to prepare the reimbursement requests. Additionally, the documents docketed during December 2024 include the following:

- TN 260646: discretionary review activities conducted by the County regarding wildfire impacts, Project alternatives, Project visual simulations, and peer review of aquatic and plant surveys, and which advocate against Commission approval of the Project;
- TN 260765: discretionary comments containing opinions regarding aerial firefighting.

None of the costs associated with these discretionary review activities are reimbursable. Additionally, the County includes redacted invoices for "professional services" with dates in September, October, and November 2024. However, the County's previous reimbursement requests already cover work conducted during those time periods. Because the invoices are

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redacted, it is impossible to tell how this work relates to those previous requests and whether the reimbursement request is duplicative.

Until the County provides descriptions of the work performed and can point to a specific service it performed for the Commission, then the Commission should reject these requests for reimbursement.

II. Conclusion

The entirety of the requested \$35,973.13 should be denied. The County has not performed a service directly in response to a Commission request, but instead has attempted to obtain reimbursement for advocacy positions against the certification of the Project or to collect fees associated with its preparation of these reimbursement requests. The County also has failed to provide adequate support for any of the claimed fees and expenses. Reimbursement Request #3 should be denied.

Sincerely,

Cox, Castle & Nicholson LLP



Anne E. Mudge