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SHASTA COUNTY AIR QUALITY MANAGEMENT DISTRICT

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May 27, 2025

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Re: Comments of the Shasta County Air Quality District on the Staff Assessment, including the DEIR, for the Fountain Wind Project (TN# 262350)

The Shasta County Air Quality Management District (“SCAQMD”) is a local government with related jurisdiction under Public Resources Code section 25519(f) over the areas of the proposed Fountain Wind Project (23-OPT-01) submitted to the California Energy Commission (“CEC”) for opt-in certification by Fountain Wind, LLC.

On March 25, 2025, the CEC issued its *Fountain Wind Project Staff Assessment* (“Staff Assessment”), which includes a Draft Environmental Impact Report (“DEIR”) prepared by staff to evaluate the potential environmental effects of the construction and operation of the Fountain Wind Project (“Project”) (23-OPT-01), in compliance with the California Environmental Quality Act (“CEQA”), the CEQA Guidelines, the Warren-Alquist State Energy Resources Conservation and Development Act, and California Code of Regulations, title 20, chapter 5, article 4.1 (Opt-In Certification Program).¹ The Staff Assessment also evaluates whether the construction and operation of the Project would conform with all applicable local, state, and federal laws, ordinances, regulations, and standards (“LORS”).

Accordingly, SCAQMD hereby submits the following comments on the Staff Assessment, including the DEIR, for the Fountain Wind Project.

I. SCAQMD Objection to CEC Jurisdiction and Reservation of Rights

On February 9, 2024, the CEC issued a Request for Input seeking comments from the SCAQMD on the Fountain Wind Project.² The CEC’s request sought an engineering evaluation and draft permit conditions for an emergency generator. The CEC’s request also sought recommendations for controlling emissions from other activities associated with the overall development of the proposed project. On February 23, 2024, SCAQMD submitted comments to

¹ TN 262350.

² TN 254394.

the CEC in response for a request for input on the Fountain Wind Project.³ Notably, SCAQMD commented that it was a separate legal entity from the County of Shasta with legal authority to regulate local air quality and implement portions of the federal Clean Air Act through California's State Implementation Plan. SCAQMD was governed by the California Health & Safety Code and had a separate Governing Board of appointed members.⁴ SCAQMD also commented that the CEC never notified SCAQMD of the project as required by state law, and that both the project applicant and the CEC had already recognized SCAQMD's jurisdiction over the project. Furthermore, for purposes of CEQA, SCAQMD is a responsible agency. SCAQMD objected to the CEC's jurisdiction over air quality and that any such preemption is in conflict with and prohibited by federal law.

SCAQMD's objection still stands as the CEC has continued to review the application and issue a Staff Assessment that purports to subsume SCAQMD authority. Therefore, SCAQMD's comments on the Staff Assessment herein are made pursuant to a reservation of rights that SCAQMD maintains a standing objection to the CEC's jurisdiction to proceed with the application process for the Fountain Wind Project. SCAQMD is participating in this proceeding to protect its rights and advocate for its constituents, while also being responsive to the CEC's request for comment on the Staff Assessment. The agency is not waiving or intending to waive its objections to CEC jurisdiction.

II. SCAQMD's Comments on Staff Assessment

SCAQMD incorporates by reference its comments submitted to the CEC on February 23, 2024, regarding the engineering evaluation and draft permit conditions for the backup generator as well as its recommendations for the overall development of the Project.⁵ It appears that the CEC has cited SCAQMD input in the Staff Assessment and recommends certain Conditions of Certification.

Should the Project proceed, SCAQMD will review the Final EIR subject to its jurisdictional objection and reservation of rights. Please let me know if you have any questions regarding these comments.

Very truly yours,



Sean Ewing
Air Pollution Control Officer
Shasta County Air Quality Management District

³ TN 254693.

⁴ See Health & Safety Code § 40000 to § 41499.

⁵ TN 254693 at 4-5 and Exhs. A-D.