

DOCKETED	
Docket Number:	23-OPT-01
Project Title:	Fountain Wind Project
TN #:	253469
Document Title:	Department of Fish and Wildlife Comments - CEQA-2017-0312_2023110139_SHA_CEC_Fountain Wind Project_NOP_Ltr
Description:	N/A
Filer:	System
Organization:	Department of Fish and Wildlife
Submitter Role:	Public Agency
Submission Date:	12/1/2023 4:15:31 PM
Docketed Date:	12/1/2023

Comment Received From: Erika Iacona
Submitted On: 12/1/2023
Docket Number: 23-OPT-01

**CEQA-2017-0312_2023110139_SHA_CEC_Fountain Wind
Project_NOP_Ltr**

1 of 2: CDFW comments in response to 2023 NOP for Fountain Wind Project, SCH # 2023110139.

Additional submitted attachment is included below.



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 30, 2023

Leonidas Payne, Project Manager
California Energy Commission
715 P Street, MS 40
Sacramento, CA 95814
Leonidas.Payne@energy.ca.gov

**SUBJECT: Fountain Wind Project, Notice of Preparation of a Draft
Environmental Impact Report, State Clearing House Number
2023110139, Shasta County**

Dear Leonidas Payne:

The California Department of Fish and Wildlife (CDFW) has reviewed the California Energy Commission's (CEC) Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the proposed Fountain Wind project (Proposed Project), dated November 2, 2023. CDFW appreciates this opportunity to provide comments and recommendations regarding Proposed Project activities that may affect California fish and wildlife, pursuant to the California Environmental Quality Act (CEQA) Guidelines.¹

CDFW wishes to highlight for CEC several crucial issues at the outset which are described further below. The first is the issue of ensuring an appropriate CEQA baseline for the Proposed Project given the passage of time since the preparation of a prior EIR by Shasta County. Second is the related need to ensure that the necessary surveys, reports, and studies to guide the CEQA analysis are based on the most current available information and are not outdated. Finally, CDFW encourages CEC to consider the recent enactment of SB 147 (Ashby, 2023), which provides a pathway for incidental take permitting under the California Endangered Species Act (CESA) for 37 different fully protected species, including species that may be impacted by the Proposed Project.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all people of the State. (Fish & G. Code, §§ 711.7, subd. (a), 1802; Pub. Resources Code, § 21070; CEQA Guidelines, § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish & G. Code, § 1802.) Pursuant to CEQA, CDFW provides biological expertise during public agency environmental

¹CEQA is codified in the California Public Resources Code, section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Leonidas Payne
California Energy Commission
November 30, 2023
Page 2

review efforts, focusing specifically on projects and related activities that have the potential to affect fish and wildlife resources.

It appears the Proposed Project would ordinarily require one or more discretionary approvals by CDFW because it may result in substantial adverse impacts to fish and wildlife resources from lake or streambed alteration (Fish & G. Code, § 1602); and incidental take of species protected under CESA (Fish & G. Code, § 2081); incidental take of fully protected species (Fish & G. Code, § 2081.15). CDFW would typically submit comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) However, because the Proposed Project applicant opted into the AB 205 certification process, the CEC has exclusive jurisdiction over the Proposed Project and is responsible for ensuring any certification of the Proposed Project includes all conditions necessary to ensure compliance with the Fish & G. Code and its implementing regulations found in Title 14 of the California Code of Regulations. (Pub. Resources Code, §§ 25545.1, subd. (b), 25545.5, subd. (a).) Thus, CDFW does not have a direct permitting role in the process that would ordinarily trigger a Responsible Agency role. CDFW instead submits these comments as a Trustee Agency under CEQA.

Pursuant to AB 205, the CEC and CDFW developed a coordination plan (herein after referred to as the “MOU”) to ensure that all potential impacts to fish, wildlife, and plant resources, and the habitats upon which they depend, including but not limited to incidental take of species protected under CESA, are consistent with the Fish & G. Code and its implementing regulations found in Title 14 of the California Code of Regulations. (Pub. Resources Code § 25545.5, subd. (a).) The MOU also ensures timely and effective consultation between the CEC and CDFW with respect to any proposed CEC findings and actions regarding potential impacts to fish, wildlife, and plant resources. (*Ibid.*) CDFW is thus also submitting these comments in its **consultation role** under AB 205 and the MOU.

PROJECT DESCRIPTION SUMMARY

The Proposed Project, as described in the NOP, is as follows:

“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

Leonidas Payne
California Energy Commission
November 30, 2023
Page 3

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.”

CDFW Consultation and Comment on Previously Proposed Project

From 2017 to 2021, CDFW responded to informal and formal consultation requests, reviewed CEQA documents, and submitted comments on a previously proposed Fountain Wind project (Previous Proposed Project). As CEQA Lead Agency, Shasta County published an NOP (January 2019), DEIR (August 2020), and Final Environmental Impact Report (May 2021) for the Previous Proposed Project under State Clearinghouse Number 2019012029. CDFW encourages the CEC, as CEQA Lead Agency for the Proposed Project, to also reference the comment letters that CDFW submitted regarding the Previous Proposed Project when analyzing Proposed Project impacts (Attachments 1 and 2). CDFW also encourages the CEC to consider the most recent scientific information available, CDFW’s comments and recommendations outlined below, as well as all future comments and recommendations CDFW provides in consultation with the CEC throughout the CEQA review process for the Proposed Project.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following scoping comments and recommendations to assist the CEC in adequately analyzing, identifying, avoiding, and mitigating significant or potentially significant direct and indirect impacts to fish and wildlife (biological) resources.

CEQA Baseline

Although the Proposed Project and Previous Proposed Project are similar, the passage of time and changes in project design may result in differing environmental impacts and mitigation from those considered in the prior CEQA process. Thus, while the CEC may be able to utilize or rely on some of the CEQA analysis for the Previous Project, new reports, surveys, studies, and analysis may be necessary because the

Leonidas Payne
California Energy Commission
November 30, 2023
Page 4

CEQA baseline has now changed.

Pursuant to the CEQA Guidelines, in developing an appropriate baseline for evaluation of potentially significant effects on the environment, “[generally, the lead agency should describe physical environmental conditions as they exist at the time the notice of preparation is published . . . from both a local and regional perspective].” (CEQA Guidelines, § 15125, subd. (a)(1); see also *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal. App. 3d 350, 354 [CEQA requires evaluation of “the effects of projects on the actual environment upon which the proposal will operate”].) CDFW encourages the CEC to define the CEQA baseline for the Proposed Project on the physical environmental conditions in the vicinity of the Proposed Project as they existed when the NOP was published on November 2, 2023, which is different from the CEQA baseline utilized for the Previous Proposed Project. (CEQA Guidelines, § 15125, subd. (a)(1).)

Natural Vegetation Communities

If the Proposed Project is consistent with the Previously Proposed Project, then it is presumed that the Proposed Project area contains several natural vegetation communities and two sensitive natural communities, including Rocky Mountain maple riparian scrub (State Rank 3) and green leaf manzanita chaparral (State Rank 3/4). It appears implementation of the Proposed Project may result in temporary and/or permanent impacts to these sensitive natural communities. Due to their rarity, impacts may be significant and may require mitigation for impacts. For more information regarding sensitive natural communities, please reference [CDFW Sensitive Natural Communities](#).

Aquatic Resources

Streams, wetlands, and riparian zones are of critical importance to protecting and conserving the biotic and abiotic integrity of entire watersheds. The Proposed Project bisects two different watersheds: Pit River and Cow Creek. Based on biological reports prepared for the Previous Project, it appears the Proposed Project may result in permanent and temporary impacts to streams, wetlands, and riparian habitats. Such impacts may be significant and may require mitigation.

Special Status Species

The NOP only identifies potential significant adverse impacts to bald eagle, golden eagle, and other non-specific raptors. However, based on a review of biological reports prepared for the Previous Proposed Project and a recent query of the California Natural Diversity Database (CNDDDB), the Proposed Project area is within the geographic range of over 100 special status species, which are identified in Attachment 3. These species should be thoroughly evaluated based on current information for their potential to occur in and around the Proposed Project area, as they may be significantly impacted by the Proposed Project and mitigation may be

Leonidas Payne
California Energy Commission
November 30, 2023
Page 5

required.

Of the species identified in Attachment 3, CDFW believes, based on previously information, that the following special status species may be significantly impacted by the Proposed Project:

- Golden eagle (*Aquila chrysaetos*)
- Willow flycatcher (*Empidonax traillii*)
- Bald eagle (*Haliaeetus leucocephalus*)
- Yellow warbler (*Dendroica petechia brewsteri*)
- Coopers hawk (*Accipiter cooperii*)
- Greater sandhill crane (*Grus canadensis tabida*)
- Ferruginous hawk (*Buteo regalis*)
- Olive-sided flycatcher (*Contopus cooperi*)
- Northern goshawk (*Accipiter gentilis*)
- Oregon snowshoe hare (*Lepus americanus klamathensis*)
- California Spotted Owl (*Strix occidentalis caurina*)
- Fisher (*Pekania pennanti*)
- Sharp-shinned hawk (*Accipiter striatus*)
- Pit roach (*Lavinia symmetricus mitrulus*)
- Southern long-toed salamander (*Ambystoma macrodactylum sigillatum*)
- Coastal tailed frog (*Ascaphus truei*)
- Silver-haired bat (*Lasionycteris noctivagans*)
- Hoary bat (*Lasiurus cinereus*)
- Western red bat (*Lasiurus blossevillii*)
- Mexican free-tailed bat (*Tadarida brasiliensis*)
- Pallid bat (*Antrozous pallidus*)
- Townsend's big-eared bat (*Corynorhinus townsendii*)
- Big brown bat (*Eptesicus fuscus*)
- Spotted bat (*Euderma maculatum*)
- Western mastiff bat (*Eumops perotis*)
- California myotis (*Myotis californicus*)
- Western small-footed bat (*Myotis ciliolabrum*)
- Long-eared myotis (*Myotis evotis*)
- Little brown myotis (*Myotis lucifugus*)
- Fringed myotis (*Myotis thysanodes*)
- Long-legged myotis (*Myotis volans*)
- Yuma myotis (*Myotis yumanensis*)
- Canyon bat (*Parastrellus Hesperus*)
- Western bumble bee (*Bombus occidentalis*)
- Cascades frog (*Rana cascadae*)
- Migratory birds known to the Pacific Flyway

Leonidas Payne
California Energy Commission
November 30, 2023
Page 6

Updating Species Evaluations and Surveys

Since Shasta County's CEQA study of the Previous Proposed Project, the state listing status of several species under CESA has changed (e.g., listing of Western bumble bee and Cascades frog) and the recognized ranges of several CESA listed species have expanded (e.g., gray wolf). CDFW encourages the CEC to update all special status species lists and reevaluate those species with potential to occur based on current information.

Additionally, biological reports prepared for the Previous Proposed Project indicate some biological surveys were performed five or more years ago. Per CDFW protocol, and due to elapsed time, CDFW advises the CEC to have updated species evaluations and supplemental species-specific (and/or where applicable, protocol-level) surveys performed for those species with potential to occur. For more information regarding CDFW survey guidelines and pre-approved survey protocols for plants and special status species, please refer to: [CDFW Survey Guidelines and Protocols](#).

Biological Assessment

The DEIR should provide a complete assessment of the flora and fauna within and adjacent to the Proposed Project area, with particular emphasis on special status species present within, or using, the Proposed Project area prior to construction, as well as those expected to be present within, or to use, the Proposed Project area during operation and maintenance. CDFW recommends the DEIR include the following information:

- A thorough, floristic-based assessment of special status plants and natural communities following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities, found here: CDFW Protocols for [Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities](#), Floristic, alliance-based and/or association-based mapping and vegetation impact assessments should be conducted on the Proposed Project site, in the neighboring vicinity, and at potential mitigation sites. Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will aid in the establishment of baseline vegetation conditions.
- A current inventory of the biological resources associated with each habitat type within the area of potential effect. The CNDDDB should be queried at [CNDDDB](#) to obtain occurrence information for any previously reported sensitive species, habitats, and range maps. To provide an adequate assessment of potentially occurring special status species, CDFW recommends that the search area for CNDDDB occurrences include, at minimum, all United States Geological Survey

Leonidas Payne
California Energy Commission
November 30, 2023
Page 7

7.5-minute topographic quadrangles bisecting the Proposed Project area, all adjoining 7.5-minute topographic quadrangles, and the inclusion of affected watersheds in their entirety. The DEIR should include how and when the CNDDDB query was conducted, including the names of each quadrangle queried, or why quadrangles were excluded, if applicable. All species with potential to occur should be included and analyzed, including seasonal use variations, based on the lifetime of the Proposed Project as described.

- Focused surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable. Species-specific survey procedures should be developed in consultation with CDFW. While the presence of some species may be presumed, the completion of protocol-level surveys (where available) is important to identify species that are present within and around the Proposed Project area, as well as how those species use the Proposed Project area prior to construction.
- CDFW's Areas of Conservation Emphasis (ACE) viewer ([CDFW ACE Viewer](#)) is also available for consideration during DEIR preparation. ACE maps show the relative biological value of an area compared with all other areas across the state. ACE is a decision support tool used in conjunction with species-specific information and local-scale conservation prioritization analyses. ACE maps do not replace the need for site-specific evaluation of biological resources and should not be used as the sole measure of conservation priority during planning.

CDFW also recommends review of previous biological technical reports, CEQA documents previously prepared for similar projects, including the Previous Proposed Project, and CEQA documents prepared for projects in and around the Proposed Project area, to help identify known and potentially occurring biological resources in the area, and to conduct a more comprehensive cumulative impacts analysis. In addition to Hatchet Ridge, which is the closest wind facility to the Proposed Project area, there are several newly constructed wind facilities in northern California that have formulated detailed management strategies and collected compelling data to support long-term adaptive management strategies likely to be applicable to the Proposed Project and its associated impacts to certain species, including but not limited to, bats and birds.

- The Proposed Project area occurs within the Pacific flyway migratory corridor, used by millions of birds each year.² According to the CNDDDB California Essential Habitat Connectivity dataset, the Proposed Project area bisects several natural landscape blocks, adjacent to an essential connectivity area. These blocks of terrestrial and aquatic habitat are likely to be suitable for

² Audubon.org

Leonidas Payne
California Energy Commission
November 30, 2023
Page 8

transitory, migratory, and resident wildlife populations. CDFW recommends the assessment of habitat connectivity and migratory corridors for birds, bats, and other terrestrial and aquatic species within and adjacent to the Proposed Project area, as this information sets a frame of reference for most appropriate wind turbine siting. Habitat connectivity should also be determined and assessed in the DEIR analysis of the Proposed Project's potential impacts. For more information regarding the importance of habitat connectivity and framework for local analyses and implementation, the California Essential Habitat Connectivity Project may be a useful resource. It can be found here: [California Essential Habitat Connectivity Project](#).

Direct, Indirect and Cumulative Impacts to Biological Resources

To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, and to identify and analyze specific feasible measures to offset such impacts, the following should be addressed in the DEIR based on current information:

- Specific acreages of habitat types that will be impacted by Proposed Project activities. Mapping and concise details should be provided so that the CEC can evaluate whether impacts will be temporary or permanent.
- Analysis of the potential adverse impacts from all Proposed Project activities, from initial construction, to operation, maintenance and decommission. Pursuant to CEQA Guidelines section 15126.2, subdivision (a), impacts associated with initial Proposed Project implementation as well as long-term operation and maintenance of the Proposed Project should be addressed in the DEIR.
- Discussion of direct and indirect Proposed Project impacts on biological resources, including resources in nearby and adjacent public lands, open space, natural communities, aquatic ecosystems, and any designated and/or proposed or existing reserve lands.
 - Impacts on wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated.
 - An analysis of direct mortality to special status and common species, with a particular focus on migratory birds and bats, the population-level impact of such mortalities, and the extent of interference with bird and bat migration corridors should also be included.
 - Relevant to the Proposed Project DEIR and of particular concern to CDFW, new data trends show migratory bat species are at risk of severe population decline due to impacts from wind energy facilities. For example, under the best-case scenario, the nationwide hoary bat population is projected to decline by 50% by 2028 if fatalities at wind

Leonidas Payne
California Energy Commission
November 30, 2023
Page 9

facilities continue unabated.³ Evidence of region-wide hoary bat decline in the Pacific Northwest also provides support for the hypothesis that fatalities from wind energy have severely impacted the species.⁴ In April 2023, the Committee on the Status of Endangered Wildlife in Canada recommended the federal government list as endangered three migratory bat species; the hoary bat (*Lasiurus cinereus*), the silver-haired bat (*Lasionycteris noctivagans*) and the eastern red bat (*Lasiurus borealis*); citing wind turbines as the greatest threat.⁵ While population trend estimates are not yet readily available for silver-haired bats, the magnitude of fatalities estimated from the nearby Hatchet Ridge facility (at least 140-300 silver-haired bat mortalities per year) could have population-level impacts for this migratory species with a low reproductive rate.

- CDFW recommends that a robust range of Proposed Project alternatives be identified and analyzed to ensure that the full spectrum of alternatives to the Proposed Project are fully considered and evaluated. This range should include any alternatives that may avoid or otherwise minimize impacts to sensitive biological resources. In addition, alternatives that maximize environmental benefits should be prioritized.
- The impacts of the Proposed Project's incidental take of CESA-listed species must be minimized and fully mitigated in the CEC's certification of the Proposed Project, and impacts may not jeopardize the species' continued existence. (Fish & G. Code 2081, subs. (b)(2), (c).) For more information regarding CESA-listed species, please visit: [CESA-listed Species Information](#).
- The CESA requirements described above may also apply to the incidental take of fully protected species under the newly enacted SB 147. This bill went into immediate effect on July 10, 2023, and was chaptered as Fish & G. Code section 2081.15. SB 147 authorizes incidental take permits for 37 different fully protected species identified in different sections of the Fish & G. Code for certain renewable energy projects including wind energy. Among those fully protected species are golden eagle and bald eagle. CDFW encourages CEC to thoroughly consider the application of SB 147 to the Proposed Project, including but not limited to any requirements for full mitigation of relevant species impacts.

³ Friedenber, N.A., and W.F. Frick. 2021. Assessing fatality minimization for hoary bats amid continued wind energy development. *Biological Conservation* 262:109309.

⁴ Rodhouse, T. J., Rodriguez, R. M., Banner, K. M., Ormsbee, P. C., Barnett, J., & Irvine, K. M. (2019). Evidence of region-wide bat population decline from long-term monitoring and Bayesian occupancy models with empirically informed priors. *Ecology and evolution*, 9(19), 11078-11088.

⁵ COSEWIC. 2023. COSEWIC assessment and status report on the Hoary Bat *Lasiurus cinereus*, Eastern Red Bat *Lasiurus borealis* and Silver-haired Bat, *Lasionycteris noctivagans*, in Canada. Committee on the Status of Endangered Wildlife in Canada. Ottawa. xxi + 100 pp.

Leonidas Payne
California Energy Commission
November 30, 2023
Page 10

- CDFW recommends the DEIR include the following plans based on current information and encourages the CEC to submit these plans to CDFW for review and/or consult with CDFW during the plan development process:
 - a. A detailed micro-siting report, including the analysis of the latest micro-siting science and field studies based on the topography of the Proposed Project area. A quantitative analysis should be applied to every wind turbine proposed.
 - b. Specific protection plans for birds, bats, and other impacted species.
 - c. A post-construction monitoring plan, specific to the Proposed Project and its activities. This plan should include a monitoring protocol, developed in consultation with CDFW, to include sufficient duration to accurately determine ongoing bird and bat mortality.
 - d. Adaptive management plans for birds, bats, and other impacted species that provide maximum targets for species fatalities. Ideally, these plans would require immediate, significant reductions in identified fatalities at offending turbines and include turbine curtailment or shutdowns during specific times of the day/night or months of the year; real-time curtailment using detection and deterrent technology; implementation of additional changes in turbine cut-in speed upon specified triggers; and other feasible, effective, and legally enforceable mitigation measures.
 - e. A maintenance plan, including a thorough discussion of all potential environmental impacts associated with maintaining the Proposed Project. The maintenance plan should include details regarding maintenance of the access road, maintenance of wind turbines and associated infrastructure, vegetation and fuels management, and erosion control. Avoidance and minimization measures should be included for biological resources anticipated to be within, adjacent to, or moving through the Proposed Project area for the duration of operations.
 - f. A decommissioning plan, including thorough discussion of all potential environmental impacts associated with decommissioning and site remediation. The decommissioning plan should detail road decommissioning, removal of turbine pads and associated infrastructure, native plant re-establishment, restoration of natural site hydrology, removal of stream crossings, stream protection, and sediment and erosion control. Specific performance standards, monitoring requirements, and contingency measures should be included. Additionally, the decommissioning plan should include how decommissioning costs are calculated and how funding will be ensured to return the Proposed Project area to pre-Proposed Project condition.

- A cumulative impact analysis for all biological resources that will be significantly or potentially significantly impacted by the Proposed Project. This analysis should include impacts determined to be significant in the absence of mitigation,

Leonidas Payne
California Energy Commission
November 30, 2023
Page 11

but less than significant with implementation of mitigation. In addition, individual impacts that are considered less than significant on their own, but when considered together, are considerable or which compound or increase other environmental impacts should be analyzed. (CEQA Guidelines, § 15355.) CDFW encourages the CEC to place special emphasis on cumulative impacts to resources that are rare, or in poor or declining health.

Mitigation Measures for Proposed Project Impacts to Biological Resources

Adverse Proposed Project-related impacts to sensitive species and habitats may be significant to both local and regional ecosystems, and the DEIR should identify and analyze all feasible avoidance, minimization, and mitigation measures (AMMs) for adverse Proposed Project-related impacts to these resources. CDFW has ongoing experience with wind energy facilities throughout the state and with the influx of improved information sharing and data collection, CDFW is ready to assist the CEC in identifying and refining applicable and effective AMMs for the Proposed Project. CDFW encourages the CEC to consult with CDFW as soon as the Proposed Project's potential impacts are quantified to discuss specific objectives of the impact analysis and appropriate methods to achieve such objectives, and to consider implementation of emerging technologies at the outset of Proposed Project operations.

CDFW recommends the following:

- AMMs should be legally enforceable and should consist of turbine layout or design modifications, establishment of no-disturbance buffer zones, operational (seasonal or weather dependent) restrictions, curtailment, detection devices, acquisition and protection of compensatory habitat, and other means to reduce the Proposed Project's direct, indirect, and cumulative impacts to less than significant wherever possible.
- Land purchased or otherwise set aside as mitigation for the Proposed Project's impacts should be legally protected from future development through a conservation easement and the Proposed Project proponent should provide adequate funding to conserve the land's conservation values in perpetuity through long-term management and monitoring. Potential issues to consider include public access, species monitoring and management programs, water pollution, and fire management.
- Plans for restoration and revegetation should be prepared by qualified individuals with expertise in northern California ecosystems and native plant revegetation techniques. Each restoration and revegetation plan should include, at a minimum: the location of the mitigation site; the plant species to be used, container sizes, and/or seeding rates; a schematic depicting the mitigation area; the planting/seeding schedule; a description of the irrigation

Leonidas Payne
California Energy Commission
November 30, 2023
Page 12

methodology; measures to control exotic vegetation; specific success criteria; a detailed monitoring program; contingency measures to be implemented should the success criteria not be met; and the party responsible for meeting the success criteria and providing for long-term conservation of the mitigation site.

- Given the 40-year lifespan of the Proposed Project and the complexities of developing strong, science-based monitoring plans and identifying species-specific mitigation approaches and strategies, CDFW recommends the formation of a Technical Advisory Committee (TAC) with clear roles, responsibilities, and authority outlined in the DEIR. Formation of a TAC may assist in the development of appropriate and effective mitigation, monitoring, revegetation, and adaptive management plans. The TAC could also assist with interpreting species mortality data and identifying operational measures that will most minimize the Proposed Project's impacts on birds and bats. In addition, the TAC could assist the CEC in developing performance standards and feasible measures to meet those standards.
 - The TAC should be comprised of multiple third-party subject matter experts from organizations dedicated to bird and bat conservation and research, scientists familiar with post-construction survey protocols, the U.S. Fish and Wildlife Service, and CDFW. The TAC structure and authority must be clearly defined to clarify how TAC recommendations are made, to whom, and whether these recommendations are binding and enforceable. The TAC, in consultation with the CEC, should provide review monitoring reports, evaluate the Proposed Project's actual impacts, and propose adaptive solutions to reduce bird and bat mortalities to the extent feasible. The TAC should be given authority to require additional post-construction monitoring and refine mitigation strategies, outlined in the adaptive management plan, should unforeseen impacts or high levels of unanticipated mortalities occur.

ENVIRONMENTAL DATA

CEQA requires that information developed in the preparation of environmental impact reports and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, CDFW requests that the CEC report any special status species and natural communities detected during Proposed Project surveys to the CNDDDB using the field survey form found at the following link: [CNDDDB Field Survey Form](#). Completed field survey forms may be submitted electronically to the CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to the CNDDDB can be found at the following link: [CNDDDB Field Survey Form Information](#).

Leonidas Payne
California Energy Commission
November 30, 2023
Page 13

FILING FEES

Because the Proposed Project would have an impact on fish and/or wildlife, an assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)


CONSULTATION

CDFW looks forward to continued and regular consultation with the CEC regarding the Proposed Project's potential impacts to biological resources and is eager to begin collaboration early in the DEIR development process. CDFW encourages the CEC to engage CDFW as soon as possible to discuss AMMs and adaptive management strategies prior to the formulation of species-specific management plans.

CONCLUSION

CDFW appreciates this opportunity to provide comments on the NOP to assist the CEC in adequately scoping the Proposed Project's potential impacts to biological resources. If you have any questions, please contact Erika Iacona, Senior Environmental Scientist, Specialist by email at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

1D82ADE7303A474...

Tina Bartlett, Regional Manager
Northern Region

ec: State Clearinghouse
State.Clearinghouse@opr.ca.gov

Erika Iacona
R1CEQARedding@wildlife.ca.gov