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<b>Filer:</b>	Caitlin Barns
<b>Organization:</b>	Stantec Consulting Services, Inc.
<b>Submitter Role:</b>	Applicant Consultant
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December 4, 2023

California Energy Commission  
Attn: Lon Payne  
Docket Unit MS-4, Docket No. 23-OPT-01  
715 P Street  
Sacramento, CA 95814

*Via US Mail and direct upload to CEC Docket*

Re: Applicant's Comments to the Notice of Preparation of a Draft Environmental Impact Report for the Fountain Wind Project (23-OPT-01)

Dear Mr. Payne,

On behalf of Fountain Wind, LLC ("Applicant"), I would like to thank you and the California Energy Commission ("CEC") for the diligent review, questions, and focused data requests on the Fountain Wind Project's Opt-in Application leading to a notice of completeness on October 30, 2023. This letter and accompanying attachments contain the comments of the Applicant on the CEC's Notice of Preparation ("NOP") of a Draft Environmental Impact Report ("EIR") for the Fountain Wind project. These comments are provided to offer additional clarification on information included in the application, to support a complete, accurate, and legally defensible EIR, and to request information used to support probable impact conclusions in the NOP.

#### **IDENTIFICATION OF PROJECT IMPACTS IN THE NOP**

Per the CEQA Guidelines,<sup>1</sup> the Notice of Preparation of a Draft EIR shall provide "sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response" regarding the "significant environmental issues and reasonable alternatives and mitigation measures that the responsible or trust agency, or the Office of Planning and Research, will need to have explored in the draft EIR." (Sections 15082(a)(1), (b)(1)). Accordingly, an NOP preliminarily identifies those issues which will require further analysis in an EIR, such that responsible and trustee agencies have sufficient information to provide comments related to their area of statutory responsibility. An NOP does not, and need not, make final environmental impact determinations.

The CEC's NOP for the Project generally is consistent with this approach. Under the main heading "Probable Environmental Effects of the Project," the NOP states "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..." This sentence properly affirms that the analysis of

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<sup>1</sup> California Code of Regulations, Title 14, Division 6, Chapter 3, Section 15000 *et seq.*

environmental effects of the proposed project will be analyzed in the EIR. However, the NOP also includes language that could be interpreted as environmental impact determinations, which would be premature at this stage of the process.

Under subheading “Tribal and Cultural Resources” (page 3), the NOP states “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.**”

Under subheading “Wildfire” (page 3), the NOP states “Staff’s preliminary assessment indicates that the project would have significant impacts and potentially have **unmitigable impacts** on wildfire.”

Under subheading “Visual Resources” (page 4), the NOP states “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**” and “[i]t 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.**”

Under subheading “Biological Resources” (page 4), the NOP states “Staff anticipates **significant adverse impacts** to or direct mortality of 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.”

Despite some of the above language, we understand it is the intent of the CEC at this stage to *preliminarily* identify potential environmental effects of the project and we would like to re-affirm that potentially significant project impacts have not yet been fully analyzed and final determinations regarding the significance of project impacts will be made by the Commission when considering certification of the Final EIR.

## ADDITIONAL INFORMATION BASED ON APPLICANT STUDIES AND DATA

In addition, the Applicant would like to clarify certain factual inaccuracies or incomplete information contained in the NOP. Over several years, we have completed over 40 field investigations, technical studies, and environmental assessments, including multiple years of bird and bat surveys, habitat and rare species surveys, visual impact studies, and archeological field surveys. Some information presented in the NOP is not consistent with our data, and to the extent that the information presented in the NOP may not be accurate, we take this opportunity to offer additional information and potential corrections. For example:

### *Tribal and Cultural Resources*

Under subheading “Tribal and Cultural Resources” (page 3), the NOP states “The cumulative archaeological and ethnographic evidence, and modern Native testimony presented in Shasta County’s previous CEQA proceedings establish a **Native American cultural landscape.**” The information presented in the NOP does not clearly define or delineate the criteria used to reach this conclusion or define the bounds of a Native American cultural landscape. We suggest the CEC define the contributing factors and specific geographic limits of any cultural landscape as a part of the AB 52 consultation process to better understand potential project impacts, and whether any feasible avoidance or minimization measures are available to mitigate impacts.

Under subheading “Tribal and Cultural Resources” (page 2), the NOP states “At least twenty discrete tribal cultural resources are in the proposed project site or within its viewshed.” The NOP also states “over 20 known artifact and burial sites have been located in the area during planning work....”

It is unclear what is meant by “**within [the project site’s] viewshed**” and whether this refers to resources that may be visible from on-site or off-site locations. The phrase “in the area” is also unclear regarding the location of the sites in relation to the Project infrastructure or disturbance area.

With regard to “over 20 known artifact and burial sites **located in the area during planning work**”, several components of this statement are unclear. For instance, we are unaware of these sites based on survey work and record searches performed as part of the application, and to date, Native American Tribes have not identified specific sites during past coordination meetings or site visits. Based on field surveys, we have at this point identified one discrete tribal cultural resource within the area of potential ground disturbance, which was not identified as a burial site. This resource would be avoided by the project. If the CEC has information on other tribal cultural resources identified within the project site, the Applicant would appreciate the opportunity to review the locations (or general locations) of such resources in consideration of avoidance/minimization options. We expect there may be opportunity to avoid, minimize or mitigate impacts to such resources.

Under the same subheading (page 2), the NOP refers to “Successful vision quests at power places like Hatchet Ridge-Bunchgrass Mountain (**in the project footprint**)...” To clarify, no parts of the project site would be physically located within the Hatchet Ridge-Bunchgrass Mountain area. Hatchet Ridge-Bunchgrass Mountain is located north of State Route 299, and the current project design is located south of SR 299.

### *Wildfire*

Under subheading “Wildfire” (pages 3 to 4), the NOP states the following:

“...the project creates open areas on ridgetops that allow wind to **exacerbate** fire risk to the exposed trees....” We do not believe the record or evidence supports this conclusion and request that the CEC please carefully consider the accuracy of this conclusion during the EIR review as it pertains to fire dynamics and existing or proposed conditions at the site. We question the

assertion that open areas exacerbate fire risk, if open areas by their nature provide for less fuel. Intuitively, these open areas are most commonly referred to as fuel or fire breaks. Additionally, the creation of “open areas” on ridgetops is not solely the result of the Project, but rather is an existing land use condition associated with timber harvest practices in the area and should be considered as part of the existing environment.

“...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)...” This statement is not consistent with previous and on-going consultations with the CAL FIRE Tactical Air Operations Unit, during which the Shasta County Fire Chief acknowledged that “aerial hazards do pose a safety concern for aerial firefighters; however, they are something we must work around on a daily basis.... Whether its power lines, antenna towers, windmills, cell towers or cable/wires spanning a drainage, the key to working in this environment is knowledge of their existence.” Wildfire experts have indicated that the presence of wind turbines does not preclude aerial firefighting because the turbines are aligned such that aircraft can operate between some of the turbine strings.

“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....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.” This conclusion is not supported by the evidence. There are, in fact, clear, straight paths for aerial firefighting within the project site while maintaining 500-foot vertical and horizontal clearance of turbines. Please see attached Figure 1 that shows distance between infrastructure within the project site that would allow adequate space and corridors for firefighting plane and helicopter maneuvers.

We are eager to address concerns regarding wildfire, and look forward to the thorough and detailed analysis of this topic in the Draft EIR. The area of the project site is a high-risk area that requires special consideration to understand fire risk, prevention, and protection. The evidence in the record thus far does not support the above statements in the NOP, and rather supports a conclusion that fire risk can be mitigated with effective prevention and protection measures. Indeed, several of the Project’s commitments will enhance fire protection in and around the project site.

For example, during the Shasta County review process, CAL FIRE recommended a wide range of mitigation measures and conditions of approval, including such measures as additional shaded fuel breaks and helicopter dip tanks. We have carried these measures forward into our application to the CEC, and remain committed to these measures, which will enhance fire protection and firefighting capabilities within and surrounding the Project area. Key protection features include:

- Approximately 687 acres of new shaded fuel breaks along the project access roads;

- State-of-the-art fire detection and suppression systems that would be installed in each of the wind turbines
- A network of 38 miles of improved, all weather access roads which will enhance access for ground based firefighting resources and improved egress routes for inholding landowners, and
- Additional fire-suppression water sources, including 5,000-gallon water tanks for the purpose of water supply for helicopters, which will be installed and maintained throughout the project site.

Under subheading “Wildfire” (page 4), the NOP states “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.”

These statements acknowledge that detailed study of wildfire risks is ongoing. We appreciate that the project’s wildfire risk will be further studied and presented in the Draft EIR. To that end, we continue to work with several technical experts to further define the risk and anticipate sharing additional information with the CEC on this topic. We also look forward to the CEC’s further study of this topic.

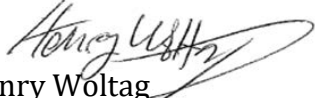
### *Biological Resources*

As noted above, under subheading “Biological Resources” (page 4), the NOP states “Staff anticipates **significant adverse impacts** to or direct mortality of 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 Project has performed multiple years of eagle nest and eagle use studies at the site following the USFWS Wind Energy Guidelines (2012) and the USFWS’ Eagle Conservation Plan Guidance (2013). Based on information collected from the site, and post-construction mortality monitoring results from the neighboring Hatchet Ridge wind project, the risk of incidental take to eagles appears low. Further, the Project does not include any new transmission lines. Rather, the Project includes above-ground electric collection lines, which are generally smaller in height and require a smaller cleared right-of-way. The Project also has committed to following Avian Power Line Interaction Committee suggested practices and guidelines as they pertain to reducing risk to avian collision and electrocution associated with these lines.

We look forward to working productively with the CEC as it develops a Draft EIR analyzing potential significant impacts of the Project, as well as measures that would reduce project impacts. We also welcome the opportunity to work with the Pit River Tribe, in collaboration with the CEC, if that opportunity is offered. We are committed to feasibly avoiding, minimizing, and/or

mitigating project impacts, and we are confident that the CEC process will identify opportunities for us to do so.

Respectfully,

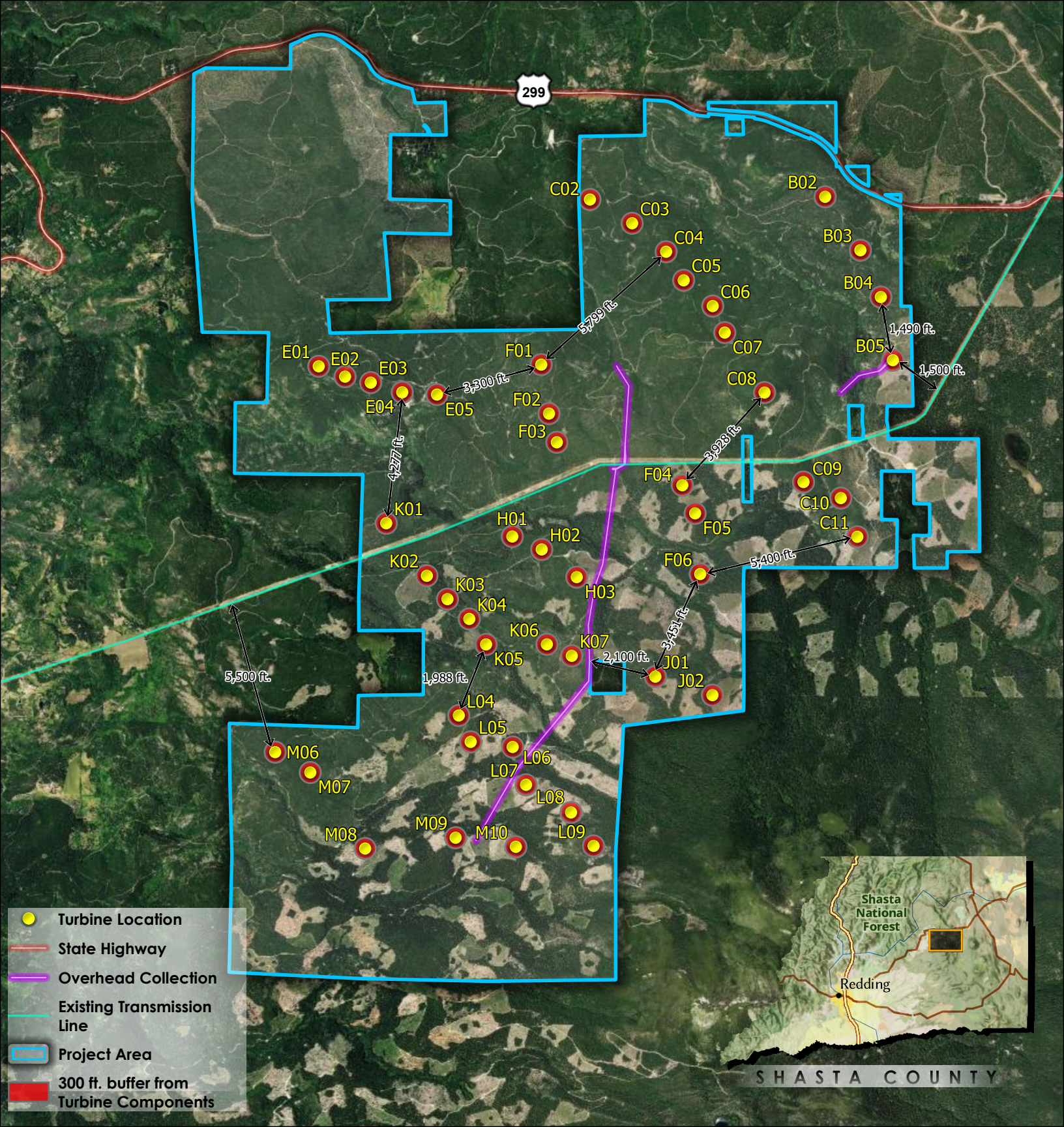


Henry Woltag  
Director, Development  
ConnectGen LLC

Figure 1: Distance Measurements between Above Ground Infrastructure

CC:

John Kuba, ConnectGen LLC  
Christy Herron, ConnectGen LLC



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- Turbine Location
- State Highway
- Overhead Collection
- Existing Transmission Line
- Project Area
- 300 ft. buffer from Turbine Components



SHASTA COUNTY

