

<b>DOCKETED</b>	
<b>Docket Number:</b>	23-OPT-01
<b>Project Title:</b>	Fountain Wind Project
<b>TN #:</b>	253517
<b>Document Title:</b>	Steven Johnson's Scoping Comments to CEC
<b>Description:</b>	N/A
<b>Filer:</b>	System
<b>Organization:</b>	Joseph Osa
<b>Submitter Role:</b>	Public
<b>Submission Date:</b>	12/4/2023 4:53:52 PM
<b>Docketed Date:</b>	12/4/2023

*Comment Received From: Joseph Osa*  
*Submitted On: 12/4/2023*  
*Docket Number: 23-OPT-01*

**Sreve Johnson's Scoping Comments to CEC**

*Additional submitted attachment is included below.*

December 4, 2023

Leonidas Payne, Project Manager  
California Energy Commission  
Environmental Office, 715 P Street, MS-15  
Sacramento, CA 95814  
[Leonidas.Payne@energy.ca.gov](mailto:Leonidas.Payne@energy.ca.gov)

Re: Fountain Wind Project (23-OPT-01)

Dear Mr. Payne,

This letter is respectfully submitted as additional “scoping comments” with respect to the scope of the CEC’s Draft Environmental Impact report that the CEC anticipates preparing over the next several months.

As noted in previous communications with the CEC, I am an attorney, real estate broker, and rancher who resides in Shasta County. I serve on the Board of Directors of the Shasta County Fire Safe Council, and I chair the committee of that organization charged with the development of a strategic plan to reduce catastrophic wildfire risks in Shasta County. I practiced law for over 30 years with the national and international law firm of Gibson, Dunn & Crutcher, and I have litigated cases concerning wind energy projects in several areas of California, including Tehachapi and Altamont Pass. My ranch is located in Montgomery Creek, close to the proposed Fountain Wind project, and my ranch was partially burned in the Fountain Fire in 1992.

As the CEC has been informed from multiple sources, the Fountain Fire in the early 1990’s was a catastrophic wildfire that burned the same site now proposed for the Fountain Wind project and beyond. That fire grew quickly in very high winds, and the area then, as now, was heavily

forested. The Fountain Fire burned hundreds of homes and other structures, mostly in the first 24 hours, and grew quickly to burn over 60,000 acres—at the time, one of the largest catastrophic wildfires in California history.

There was a plethora of evidence submitted to the Shasta County Planning Commission and Board of Supervisors, when the Fountain Wind project was before those bodies, that demonstrated that the project would pose an unacceptable significant increase in the risk of a catastrophic wildfire in Eastern Shasta County if the project was built. Shasta County is currently in the process of assembling the administrative record of the five-year process that the County went through before the final denial of the requested permit for Fountain Wind. That process included a complete CEQA review, including a scoping meeting, written scoping comments from the public, a Draft EIR, more public comments, a Final EIR, more public comments, then public hearings before the Planning Commission, unanimous denial of the permit application by that body, followed by an appeal by Fountain Wind to the Board of Supervisors, then more public comments, a public hearing, and final denial of the permit by the Board of Supervisors (and no court challenge by Fountain Wind, and therefore finality of the denial under the law at that point). It is expected that the administrative record of those proceedings will exceed 10,000 pages, and once the County finishes assembling it, it will be presented by the County to the CEC and docketed. What followed that proceeding was another proceeding that culminated in a county-wide ban of large wind energy systems, for many of the same reasons the Fountain Wind permit application was denied. The separate administrative record of the proceedings that led to the current ban on large wind energy systems has already been submitted by the County to the CEC and docketed.

In the administrative record relating to the County's final denial of the permit application, there is an abundance of evidence that the existence of the project itself, if built, will greatly increase the risk that any fire or fires in the area of the turbine field will not be able to be fought from the air, as the turbines will be in the way, thereby greatly increasing the risk that a fire or fires which could have been quickly suppressed by air attack will instead grow to out of control proportions and become catastrophic, and that further, the existence of the turbines, as one of the aerial fire fighters put it, will make the local communities "indefensible" to wildfire. Which means of course, that the local communities of Montgomery Creek, Round Mountain, Moose Camp, and perhaps others will burn to the ground and people will die.

The CEC's jurisdiction (or lack thereof) to proceed with a "do over" of the final denial of the permit by Shasta County, which now would also require the CEC to make special findings to overcome the ban of such projects in the Shasta County zoning code, has been called into question both by filings by the County and others with the CEC, and also by a recent lawsuit filed by the County and Pit River Tribe against the CEC. Assuming for purposes of this letter only, and without conceding the valid legal arguments as to why the CEC lacks jurisdiction to repeat and conduct a duplicative and unnecessary if not illegal additional CEQA review of a project twice denied by Shasta County, I would like to suggest that the CEC expand the scope of its CEQA review to include additional analysis of the wildfire issues, including the adverse impacts or consequences of a catastrophic wildfire caused or exacerbated by the Fountain Wind project.

It appears the CEC is already prepared to address in its Draft EIR the increased **risk** of wildfire posed by the project, and there is a plethora of evidence in the administrative record that the County will docket with the CEC in coming weeks that demonstrates that increased risk.

Many of the same aerial firefighters who testified before the County have submitted similar testimony to the CEC already. But it is not enough for the CEC to look only at the increased risk of wildfire posed by the project. Indeed, it is almost certain that the site, which burned once before in 1992, will burn again, as it is in the highest fire danger zone in the state, and the area tends to get dry lightning in the summers, that can start multiple wildfires across the landscape in the same afternoon. This has happened before, and it will inevitably happen again and again in that area. But what is different, if the project is built, is that the project itself could both cause a wildfire or wildfires, and at the same time exacerbate such a fire or fires. The project can cause a wildfire for many reasons—the turbines will attract lightning and such lightning can hit and then splinter off the turbine towers to ignite the surrounding forest, the project roads and associated industrial activity and project operations present thousands of additional potential ignition sources such as sparks from truck exhaust, human activity throughout the site that otherwise would not be there, storage and use of fossil fuels on the site, operation of the electrical infrastructure and miles of new power lines (overhead power lines in heavily forested areas have caused numerous wildfires in California in recent years), and of course, wind turbines have and do sometimes catch on fire themselves showering flames and sparks in high winds across the landscape (in this case the highest fire danger landscape in California) setting the surrounding forest on fire. And the added roads and “shaded fuel breaks” proposed will not stop the spread of a fire or multiple fires (in a “lightning complex” fire there are often several fires burning at once, and then those fires can spread and cause additional “spot” fires as burning embers are carried by the wind).

Most of the recent catastrophic fires in Shasta County and other Northern California counties in recent years jumped dirt roads and even paved roads with ease. The Carr fire created a seven-thousand-foot-tall fire tornado that could be seen from space, and which jumped the Sacramento River and burned into West Redding, killing eight, and burning over 1000 homes. The Camp fire burned the entire town of Paradise to the ground, and killed over 80, most of whom were burned alive. The Zogg fire in Shasta County killed 4, who could not get out in time. The Delta fire jumped Highway 5 (several paved lanes wide), as did the Salt fire. And there are many other examples. All these fires were in the last five years, during the pendency of the Fountain Wind permit application, and firefighting from the air on those fires was not precluded or prevented by 48 wind turbines the size of skyscrapers spread across the landscape. Had those fires had such obstacles in the way, they would have likely become even more catastrophic and even more would have died.

The only way to slow or stop such fires entirely before they become catastrophic is by quick and effective aerial attack with air tankers and to a lesser extent helicopters (air tankers carry fire retardant, while most helicopters can only carry a relatively small amount of water, and therefore air tankers are many many times more effective than helicopters).

Such air tankers have been used to lay down huge fire breaks from the air, saving homes and lives, by laying down red fire retardant along ingress and egress roads, and around homes and indeed entire communities. They can also quickly stop fires from becoming catastrophic, and this is particularly true in Shasta County, which has an airbase for such air tankers near Redding.

But such air tankers would be useless in the Fountain Wind project site and surrounding area, because the very turbines themselves would create a “no-fly” zone, as the air tankers are very large and heavy, and need to drop retardant 150 or 200 feet above the ground. It is simply impossible to fly air tankers at that elevation between and among 650-foot-tall wind turbines. Fountain Wind has tried to hire supposed fire experts to say otherwise, but those individuals do not have air tanker experience, have never flown air tankers in a fire or otherwise, and the actual experts who do fly the air tankers have said in no uncertain terms that the handful of supposed fire experts hired by Fountain Wind don’t have the right background or experience in aerial firefighting to opine on the issue, and don’t know what they are talking about. More important, Fountain Wind has not presented any actual evidence that an air tanker, in any wind farm wildfire, has ever, in the history of aerial firefighting in California, flown at low elevation between and among 650-foot turbines in an actual wildfire situation. They are just making it up as they go along. Indeed, the actual pilots have testified that this is not possible, and that the winds and vectors could flip a DC-10 upside down in such a situation. This is not a close question.

No doubt the CEC intends to examine in the draft EIR the increase in catastrophic wildfire risk posed by the project, including the impediments to aerial firefighting, the fact that any dirt roads will not stop a wildfire spreading in the crowns of the densely packed trees (and that the roads actually will increase spark ignition possibilities by bringing thousands of truck trips and other human activity that could spark a fire into the forest), and so on. The existence of the project, if built, will make a catastrophic wildfire there almost a near certainty, at some point during the life of the project. It will be a question only of when, not if. That site has burned before, it will burn again, and the existence of the project and the lack of aerial firefighting caused by the



project, will make it near certain that fires in the project site or nearby will not be possible to contain with air attack, and therefore are much more likely to become catastrophic and burn beyond the project site into the local communities and beyond, and become another Carr fire (over 300,000 acres), or Dixie fire (nearly 1 million acres burned over four counties), or Camp fire, or Lahaina fire, or other similar catastrophic fire of recent years. And even school children will someday just add Fountain Wind to the list of well know catastrophes—Chernobyl, Fukushima, Three Mile Island (nuclear disasters), Carr Fire, Camp Fire, Zogg Fire, Fountain Fire (such a long list of catastrophic fires), San Bruno (PGE gas explosion in 2010 that blew up a neighborhood, killed several people, resulted in billions of dollars of liability and fines for PGE), and other catastrophes that led to loss of life, incredibly environmental harm that will last for generations, and billions of dollars of damages. And with respect to fires, there have even been recent criminal proceedings against those responsible (including PG&E). The list of such disasters is, sadly, very long.

It is your duty and responsibility to keep Fountain Wind from being added to that list.

I ask, therefore, that in addition to covering **wildfire risk** in the draft EIR, that you also cover, in terms of scope, the potential **adverse consequences of a catastrophic wildfire caused or exacerbated by the Fountain Wind project if built**.

Those adverse consequences fall into many categories and I ask that you include them in the draft EIR studies of all the potential consequences.

First, and most obvious, is public safety, and more directly, how many people may die. The aerial firefighting experts say that the turbine project will make the local communities indefensible to wildfire, which

means the local communities will burn to the ground. It's very likely that dozens (as in the Camp fire in Paradise) if not hundreds of people (as in Lahaina, Maui) will not be able to get out in time, without retardant slowing the fire or being dropped along the highway. So, you should study and project how many people will likely die as a result, and how many homes and businesses will burn, and the human, societal, and economic impact of burning the local communities to the ground.

Second, you should include a study of the adverse environmental impact of burning hundreds of thousands of acres of forest and millions of trees, and thereby emitting thousands of tons of carbon into the atmosphere all at once. The purpose of the project is supposedly to create renewable energy to fight climate change. However, if the project causes or exacerbates a catastrophic wildfire that burns hundreds of thousands of acres, the project will **accelerate** not fight climate change, and will cause more carbon emissions than a dozen or a hundred such wind projects could possibly offset. So, a study of the carbon emissions from a catastrophic fire should also be included in the EIR, and how much climate change will be accelerated, therefore, by the CEC's approval of the project, if it were to approve and issue the permit.

Thirdly, the adverse environmental harm of a catastrophic fire should be studied in the draft EIR in terms of the toxic waste site that the Fountain Wind site would become in the wake of such a fire. The turbine project itself would become a landscape of twisted wreckage, much of it melted in the heat of the fire. Turbine blades, without a fire, are made of composite material (plastics, I believe) that are not recyclable even in the absence of fire and have to be disposed of in special dumps for toxic materials, but if burned and melted, strewn across the landscape, the burned wreckage of the turbine project

would no doubt become a toxic waste site, maybe even a Superfund site. Fountain Wind is an LLC (Limited Liability Company). After a fire, it could be put into bankruptcy and what insurance it might have would likely be inadequate to pay the billions of dollars of damages alleged in the hundreds of lawsuits that would follow. There would likely be no money available to adequately clean up the environmental disaster that the site would become. The County probably could not afford to clean up the site either. That would fall to the State of California or perhaps the federal government, and quite possibly would not occur for years or decades. In the meantime, toxics from the melted mess and wreckage of the project would flow into the pristine surface waters of the creeks in the project site area (Hatchet, Montgomery, and Cow Creeks, among others), as well as likely contaminate the groundwater. All those creeks and the groundwater flow either into the Pitt River, above Shasta Dam, or the Sacramento River, below Shasta Dam, one of the main water sources for Northern California, and via the aqueduct, Southern California, both for agricultural and residential water supply. Potentially contaminating some of the headwaters of that massive water drainage and delivery system for all time needs to be considered as one of the many horrific environmental harms that could be caused by the project if it sparks or contributes to a catastrophic fire that burns the project itself and some of the turbines and infrastructure.

Fourth, in addition to the harm to people's lives and entire communities, acceleration of climate change, environmental harm and creation of a toxic waste site that was once a windfarm, perhaps for decades or generations, there is also the concomitant harm to wildlife, aesthetics, and the landscape held sacred to native peoples, posed by hundreds of thousands of acres of burned down forest, burned and hollowed out communities, and several thousands of acres of burned and twisted wreckage that was once a wind turbine project.

And finally, there is the potential for billions of dollars of damages, and hundreds of lawsuits, similar to those alleged against PG&E from recent fires. There would no doubt be multiple targets of the plaintiff's lawyers that will file suit on behalf of victims, businesses, communities, and others who suffered damage directly or indirectly from the fire. As the project itself will likely be put into bankruptcy, no doubt other defendants will be named in various lawsuits, including the State of California and the CEC. If the first project approved by the CEC under AB 205 results in a multi-billion dollar disaster, it is likely that other projects, even those with potential merit, may be delayed or scrapped, and the authority given to the CEC under AB 205 will be withdrawn, as the State and the CEC turn to trying to defend their decision to put a wind project, twice denied by the County and rejected by the vast majority of local citizens, in a forest in the highest fire danger zone in the state, and actually named after an earlier catastrophic wildfire on the same site. That somehow this was a good idea even knowing that a multi-billion-dollar disaster with multi-generational harm to the environment, entire communities, and native peoples may very likely follow. Renewable energy in California could very well be set back decades if the first project approved by the CEC results, in a few short months or years, in the very disaster that Shasta County and virtually all its citizens begged the CEC to avoid.

It is time for the CEC to do the right thing and dismiss the application and deny the project. It is not a close question; it is not debatable. The potential consequences of a catastrophic wildfire in that area are horrendous. It is not worth the risk. Please do not only evaluate the increased risk, but also cover and study in the draft EIR the magnitude of the consequences of the horrible tragedy that could potentially ensue.

Respectfully submitted,

Steven J. Johnson