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BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter of:

Fountain Wind Project Opt-In
Application for Certification

Docket No. 23-OPT-01

**COUNTY OF SHASTA AB 205 REVIEW AND COMMENTS ON
FOUNTAIN WIND PROJECT COMMUNITY BENEFITS AGREEMENT
UPDATE AND SUBMITTAL**

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In the Matter of:

Fountain Wind Project Opt-In
Application for Certification

Docket No. 23-OPT-01

**COUNTY OF SHASTA AB 205 REVIEW AND COMMENTS ON
FOUNTAIN WIND PROJECT COMMUNITY BENEFITS AGREEMENT
UPDATE AND SUBMITTAL**

The County of Shasta (“County”) respectfully submits these comments on the *Community Benefits Agreement* filed by Fountain Wind, LLC (“Applicant”) in the above-captioned docket on December 14, 2023.¹

I. INTRODUCTION

The Applicant has once again filed a false community benefits plan with the Commission, thereby making the Fountain Wind Project (“Project”) ineligible for certification under the Commission’s Assembly Bill (“AB”) 205 opt-in process.² The Applicant has done so despite repeated admonishments and data requests by Commission staff³ and the County,⁴ and despite the County objecting to the Project application being deemed complete by Commission staff.⁵ This

¹ TN253611.

² The Commission is prohibited by law from certifying the Project “unless the commission finds that the applicant has entered into one or more legally binding and enforceable agreements with, or that benefit, one or more community based organizations ... “ Pub. Res. Code § 25545.10(a).

³ TN252072, *Staff Response to Fountain Wind, LLC’s Letter Seeking Determination of Completeness; Wildfire Data Requests* (Aug. 31, 2023); TN252320, *Community Benefits Data Request for the Fountain Wind Project (23-OPT-01)* (Sept. 20, 2023).

⁴ On November 13, 2023, the County submitted an information request regarding the Applicant’s purported community benefits agreement with the Community Foundation of the North State (“Foundation”)—with copies to Commission staff—pursuant to 20 CCR section 1716. The County docketed its information request and the Applicant’s response thereto on November 28, 2023 (TN253348).

⁵ TN253348, *County of Shasta Comments Regarding Community Benefits Plan and Application Completeness Determination* (Oct. 31, 2023).

behavior by the Applicant runs contrary to its claim that it “has been in close coordination with Commission staff to provide required data and answer all deficiency questions.”⁶ Yet it is hardly surprising, considering the Applicant’s flagrant disregard for the will of the people of Shasta County,⁷ the tribal cultural resources of the Pit River Tribe,⁸ and applicable laws and regulations. In short, the Applicant has yet to submit a valid community benefits agreement that comports with AB 205 requirements or the Commission’s regulations implementing those requirements.⁹ The Commission, therefore, should not have deemed the Project application complete and cannot by law certify the Project.¹⁰

The Applicant has abused the AB 205 opt-in process from the moment it filed its application, has disregarded clear statutory and Commission requirements, and now asks the Commission to believe that buying off a special interest group—whose members, not the community, stand to benefit from the payout—satisfies its obligation to enter into a community benefits agreement with one or more community-based organizations. To be clear, the Northeastern California Building & Construction Trades Council (“NCBCTC”) is not a community-based organization under Public Resources Code section 25545.10. Its primary purpose is to lobby for its own interests and the interests of its members; not to provide a benefit to the community. NCBCTC is not a labor union and does not engage in workforce training or development, has no revenue or staff, and any program it has offered appears to be on a one-time

⁶ TN251479, *Opt-In Application for Certification of Fountain Wind Project, Docket Number 23-OPT-01* (“Fountain_Application_Completion_Letter_2023-0803”) (Aug. 3, 2023).

⁷ See e.g., TN252912, *Letter to CEC Chair from Supervisor Rickert*, in which Supervisor Rickert unequivocally states that “the project is universally opposed by residents, businesses, and other organizations throughout Shasta County due to the significant adverse impacts with respect to wildfire hazards, aerial firefighting, viewshed, water quality, biological resources, Shasta County’s economic base, and Tribal cultural resources.” (emphasis added).

⁸ TN252625, *Pit River Tribe Comments – Objection to Fountain Wind Project* (Oct. 18, 2023).

⁹ 20 CCR section 1877(g) required the Applicant to include within its opt-in application the Applicant’s “plan or strategy, including a timeline for execution, to obtain a legally binding and enforceable agreement(s) with, or that benefit, a coalition of one or more community-based organizations prior to project certification”

¹⁰ Pub. Res. Code § 25545.10.

basis in the Shasta County area carried out by other organizations and serving paid-for members across multiple counties. Nor is \$175,000 a meaningful contribution,¹¹ especially when compared to the \$1,800,000 the Applicant initially indicated it was providing as part of its *Fountain Wind Project Community Benefit Program*¹² and then later promised \$2,900,000.¹³ The Community Benefits Agreement is also suspect based on NCBCTC’s prior proposal to serve the Pit River Tribe.

Accordingly, the Applicant has not presented the Commission with a community benefits plan or agreement that satisfies AB 205 pursuant to the timelines provided by the Public Resources Code and Commission regulation. ***Therefore, the County asks the Commission to dismiss the Fountain Wind application for failing to satisfy the community benefits agreement requirements of Public Resources Code section 25545.10 and 20 CCR section 1877 and terminate the proceeding.*** If the Commission does not do so immediately, it should pause the proceeding while it conducts a formal investigation or evaluates this issue in further data requests of the Applicant.

II. DISCUSSION

Under its AB 205 review and comment obligations, and as recognized by Commission staff in responses regarding 20 CCR section 1715 cost reimbursement,¹⁴ the County has reviewed the Community Benefits Agreement with NCBCTC, including NCBCTC’s purported status as a “community-based organization” under federal and state law and in the Shasta County community

¹¹ \$175,000 is the “Funding Obligation” in the “Community Benefits Agreement” the Applicant filed on December 14, 2023. TN253611.

¹² TN248296-2, *Community Benefits Program* (Jan. 3, 2023).

¹³ TN252585, *FWP Community Benefits DRAFT Fund Agreement* (Oct. 12, 2023); TN252586, *FWP Response to Community Benefits Data Request* (Oct. 12, 2023).

¹⁴ TN253385, *Response to County of Shasta Revised Request for Reimbursement* at 4 (Nov. 29, 2023) “In anticipation of a binding agreement, Shasta County anticipates providing additional review and comment. The costs associated with this additional review would be an expense eligible for reimbursement since a binding agreement is a required component of the developer’s application.”

and its Form 990 financial filings with the Internal Revenue Service (“IRS”). The County’s review is a required component of the Project application. And, as the local government with underlying land use authority and who previously reviewed a prior community benefits agreement proposal submitted by Fountain Wind LLC to the County as part of Fountain Wind LLC’s permit application, such review is within the County’s expertise as the County is the local agency that represents, through its elected Board of Supervisors, the local community, and is acutely aware and knowledgeable of community interests, benefits and organizations, and through such representation can speak on behalf of or regarding those interests, benefits or organizations.¹⁵

A. The Applicant Has Not Followed the Law, Commission Regulations, or Commission Guidance Regarding the Community Benefits Agreement Requirement

The Applicant has continuously and repeatedly disregarded AB 205 requirements and Commission regulations and guidance since first filing its application. At the outset, the Applicant failed to satisfy 20 CCR section 1877(g) by not including in its opt-in application a “plan or strategy ... to obtain legally binding and enforceable agreement(s) with, or that benefit, a coalition of one or more community-based organizations prior to project certification ...” Instead, the Applicant submitted an “outdated” and arguably manufactured, list of projects the Applicant was “willing to fund purportedly based on community feedback” that Commission staff determined seven months into the proceeding did not satisfy the Applicant’s obligations under statute or regulation.¹⁶ As acknowledged by Commission staff, this “Community Benefits Program,” apparently created in June 2021,¹⁷ did not include details about the “proposed community benefits including a plan or strategy, and a timeline for execution, to obtain legally binding and enforceable

¹⁵ The County’s comments herein are also eligible under 20 C.C.R. § 1715(b)(1) as they are a presentation or defense of a position reasonably related to the community benefits plan, which the County is requested to review and is within the County’s expertise as the local agency.

¹⁶ TN252072, *Staff Response to Applicant request for Determination of Completeness, including Wildfire Data Requests*” at 2 (emphasis added) (Aug. 31, 2023).

¹⁷ TN248296-2, *Community Benefits Program* (Jan. 3, 2023).

[community benefits agreement(s)]” and therefore did not satisfy the requirements of Public Resources Code section 25545.10 or 20 CCR section 1877(g).¹⁸ Moreover, the Applicant had not as of August 31, 2023—over eight months after submitting its opt-in application—submitted updated information to remedy this deficiency, despite making statements that it would.¹⁹ The Applicant’s disregard for the Commission’s opt-in application filing requirements foreshadowed what has become a regular pattern of behavior by Fountain Wind, LLC.

This pattern of non-compliant behavior continued when, on September 28, 2023, the Applicant submitted its *Response to Community Benefits Data Request*,²⁰ disclosing so-called “negotiations” with a foundation, but redacting all pertinent information from the public version of the document.²¹ The Applicant, thereafter, re-filed its community benefits plan data response without the redactions, but did not explain why it had initially redacted the documents or did not rescind its confidentiality designation request.²² The Applicant did, however, cite negotiations with the Community Foundation of the North State (“Foundation”) and allege that approximately \$2,900,000 in Foundation funds was earmarked for the Pit River Tribe and the Shasta County unincorporated area.²³ Subsequently, the Pit River Tribe objected to the Project and “vehemently” objected to the Applicant’s misleading claims regarding its community benefits plan and assertions that 50 percent of the funding was dedicated for Tribal resources.²⁴

¹⁸ *Id.*

¹⁹ *Id.* According to staff, “[o]n several occasions, including most recently on July 27, 2023 ... the applicant has stated its intent to provide updated information on community benefits [but] to date the applicant has not submitted updated information and details about the proposed community benefits ...”

²⁰ TN252431.

²¹ The County addresses this deficient filing further in TN253348, *County of Shasta Comments Regarding Community Benefits Plan and Application Completeness Determination* (Nov. 28, 2023). The County objected to the Applicant’s designation of this filing as confidential in TN252457, *County of Shasta Objection to Applicant Confidentiality Request Re Community Benefits Agreement Data Response* (Sept. 29, 2023).

²² TN252585, *FWP Community Benefits DRAFT Fund Agreement* (Oct. 12, 2023); TN252586, *FWP Response to Community Benefits Data Request* (Oct. 12, 2023).

²³ *Id.*

²⁴ TN252625.

Moreover, the Applicant refused to confirm whether it had executed a community benefits agreement with the Foundation or whether good faith negotiations with the Foundation remained ongoing, despite the County's lawful 20 CCR section 1716 information request seeking confirmation thereof.²⁵ Considering the Applicant's ongoing obstinate behavior, this refusal to substantively respond to the County's information request was not surprising, but it was unlawful. The Applicant's refusal to verify or otherwise provide information to the County—and, more importantly, the Commission and the public—as to whether its purported community benefits agreement negotiations with the Foundation were ongoing further demonstrated the Applicant's unwillingness (or inability) to satisfy its community benefits agreement requirements. Despite the County's objections and the lack of evidence of a “plan or strategy, including a timeline for execution” of a valid community benefits agreement, Commission staff deemed the application complete on October 31, 2023.²⁶ Nevertheless, the Commission is obligated to follow the law and must not certify the Project until the Applicant demonstrates compliance with Public Resources Code section 1877(g), which, despite its claims to the contrary, it still has not shown.

Again, under 20 CCR section 1877(g), the Applicant was required to have submitted an application including the community benefits plan or strategy with a timeline for execution. It did not do so. The Applicant was given 8 months to further supplement its application, and despite

²⁵ The County submitted its information request to the Applicant on November 13, 2023 and on November 16, 2023 the Applicant responded that the County was not legally entitled to submit to Applicant an information request, that it had no duty to provide any information to the County whatsoever, and that, even if it did have a duty pursuant to a lawfully made section 1716 request, it would not do so because community benefits plan information was not necessary for the County to comment on the Project. The County discusses this exchange with the Applicant at greater length in its November 28, 2023 *County of Shasta Comments Regarding Community Benefits Plan and Application Completeness Determination*, TN253348.

²⁶ Commission determination of complete application was dated October 30, 2023, but the filing was submitted after 5pm and therefore, should have been docketed and effective October 31, 2023. The County filed an objection to the docketing date noting the error. TN252889, *County of Shasta Comments re Incorrect Docketed Date re Determination of Complete Application for Fountain Wind Project* (Nov. 1, 2023). The CEC Docket Unit has since verified in writing with the County that the date was incorrectly docketed in violation of Commission filing regulations, yet the Commission has not taken any action to correct the date and has since issued multiple public notices with the wrong date.

indicating that it was negotiating an agreement with the Foundation and would execute such agreement by the end of September 2023, it did not do so. After 45 days from when the application was deemed complete, in accordance with 20 CCR section 1878(c), the Applicant still has not provided updated or supplemental information to the Commission regarding the initial 2021 plan or the Foundation plan, or submitted a *bona fide* community benefits plan or agreement that complies with the Public Resources Code. Instead, the Applicant has brazenly submitted an agreement with an organization that does not qualify as a community-based organization, does not offer programs or services to the community, and which agreement is not a meaningful community benefit by law. The Applicant has also indicated in its scoping memo presentation and recent filing that it only has to submit one agreement, does not have to provide executed agreements until the last day of the 270-day AB 205 certification period, and a promise that other agreements are being negotiated. Given this, by law, the time for a community benefits plan has passed and the application should be dismissed and the proceeding terminated.

B. The Northeastern California Building & Construction Trades Council Is Not a Community-Based Organization Under Public Resources Code Section 25545.10

The Northeastern California Building & Construction Trades Council, or NCBCTC, is not a community-based organization under Public Resources Code section 25545.10 or any other definition of federal or state law and the agreement between the Applicant and NCBCTC is not a *bona fide* community benefits agreement under the law. Formed in 2017, NCBCTC is a small non-profit corporation with the primary, if not sole, purpose to lobby on behalf of three North State member trade councils through the operation of a political action committee.²⁷ NCBCTC is a

²⁷ According to its website, it engages in political activism to “support candidates and measures that are in line with the interests of the construction industry” and has “been at the forefront” of “issues directly relevant to its members.” *Northeastern California Building & Construction Trades Council – About Us*, [www://https://northstatebuilds.com/northeastern-california-building-construction-trades-council/](https://northstatebuilds.com/northeastern-california-building-construction-trades-council/) (last accessed Dec. 19, 2023). See also <https://www.causeiq.com/organizations/northeastern-building-and-construction-trades-coun,941393142/>.

regional trade council operating on behalf of three smaller trade councils across several counties in the larger Northern California area. Its stated goal is to “elect candidates and support measures” that ensure construction jobs go to its members in California.²⁸ NCBCTC is not a labor union,²⁹ nor does it claim to be one, despite the Applicant’s characterization of it as such.³⁰ As a lobbying organization for three regional trade councils pledging financial support for political candidates that support labor, NCBCTC is merely an association, but it is not itself a labor union and does not fall within the definition of and is not organized as a “labor organization” under the National Labor Relations Act because it does not represent employees in labor relations with a specific employer or industry.³¹ It is simply an advocacy organization for certain paid-for labor interests across the North State, and like other PACs or entities running PACs is a community-based organization where the purpose is to elect and defeat candidates for office.

Although its business address is located in Redding, California, it is collocated in a location of one of its members and has no office of stand-alone location, and the organization does not provide services to the Shasta County community. And, as evidenced by its Form 990s filed

²⁸ According to its website, the “North State Builds Jobs PAC” is a Political Action Committee registered with the FPPC as a General Purpose State Committee.” [www://northstatebuilds.com/political-action/](http://www.northstatebuilds.com/political-action/) (last accessed Dec. 19, 2023). According to the Fair Political Practices Commission’s (“FPPC”) Campaign Manual 4 (June 2020), a “general purpose committee receives contributions to use for political purposes, such as making contributions or independent expenditures to support or oppose candidates and ballot measures, or making contributions to political parties and other state and local campaign committees.” The FPPC’s General Purpose Committees Campaign Disclosure Manual 4 is available at https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Manuals/Manual_4/Final_Manual_4.pdf (last accessed Dec. 19, 2023).

²⁹ NCBCTC refers to itself as “North State Builds,” a “partnership of California’s three most Northern Building & Construction Trades Councils” that represents construction workers and contractors. The website makes no claim that either NCBCTC or North States Builds is a labor union and there is no other information submitted by the Applicant or publicly available indicating that it is.

³⁰ The Applicant refers to the NCBCTC as “Union” throughout its purported Community Benefits Agreement. TN253611. NCBCTC is not a union as that term is more commonly known under the National Labor Relations Act (“NLRA”) or a “labor organization” as defined under the NLRA.

³¹ A “labor union” is ultimately governed by the National Labor Relations Act which defines “labor organization” as “any organization of any kind, or any agency, or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.” 29 U.S.C. § 152(5).

with the IRS, NCBCTC is not a “workforce development and training organization” under AB 205.

The attached Form 990s for 2019, 2020 and 2022 were filed by NCBCTC as part of its federal financial transparency obligations as a registered 501(c)(5) organization.³² The Form 990s demonstrate that the bulk of revenue to NCBCTC comes from member dues.³³ As an organization, the total annual revenue is approximately \$5,000 per year.³⁴ NCBCTC also has no staff, and is run instead by a few volunteer “officers,” presumably leaders from the NCBCTC members, who commit a few hours of time to the organization.³⁵ As indicated on the Form 990s, there are no salaries, compensation, or employee benefits provided by the organization.³⁶ Thus, NCBCTC is extremely small and does not have staff or resources and could not conduct community events or engage community interests. Rather, the various Form 990s shows that annual organizational expenditures are on professional fees to independent contractors with the only significant expense in this category being in 2019 for \$11,603.³⁷ Remaining expenses reflected on Schedule O list office expenses, depreciation, fixed office assets, and meetings.³⁸ Other than those expense categories, the only other expenses noted by NCBCTC are on campaign contributions. These contributions are as follows: \$4,295 in 2019, \$39,000 in 2020, and \$7,000 in 2022.³⁹ ***There are no other expenses listed or any categories showing that NCBCTC engages in community benefit or educational programs or activities.***

³² NCBCTC appears to not have filed a Form 990 with the IRS for fiscal year 2021 and is missing other prior years.

³³ See e.g., 2022 Form 990EZ, Part I, Line 3.

³⁴ 2022 Form 990EZ, Part I, Line 9. This is the average revenue amount across the last few Form 990 filing years.

³⁵ 2022 Form 990EZ, Part IV(b).

³⁶ 2022 Form 990EZ, Part I, Line 12.

³⁷ 2019 Form 990EZ, Part I, Line 13.

³⁸ See 2019-2022 Form 990EZ, Schedule O.

³⁹ See 2019-2022 Form 990EZ, Part I, Line 16 and Schedule O.

According to nonprofit watchdog organizations, at least 65 percent of nonprofit expenses should be spent on programs.⁴⁰ In fact, NCBCTC’s political activities and campaign contributions to candidates for elected office account for approximately 60 percent of its budget with the remaining budget spent on building and overhead costs. Simply put, NCBCTC is not a community benefits organization. It serves a few regional members most of which are located outside Shasta County, has no staff, has no educational expenses or budget, and whose primary purpose and expenses are giving campaign contributions to labor friendly candidates, none of which have been in Shasta County.⁴¹ It is essentially a shell company that exists only on paper for its members to provide campaign contributions.

Lastly, there is scant evidence suggesting that NCBCTC has conducted—or upon receipt of funds from the Applicant would conduct—workforce training or development programs benefitting Shasta County, or more importantly, the unincorporated areas of Round Mountain, Montgomery Creek or Burney, or regularly conducts such programs at all sufficient for NCBCTC to constitute a “workforce development and training organization.” NCBCTC at one-time has steered the members of its member organizations to an educational class and certain out-of-area apprenticeship programs run by other entities. But, neither the Applicant nor NCBCTC’s website show that NCBCTC has performed the services identified in Exhibit A of the Applicant’s “Community Benefits Agreement Update & Submittal.” Exhibit A describes educational curriculum for building trades and that NCBCTC has “conducted five MC3 classes in Redding, CA”; however, there is no evidence that such curriculum has actually been conducted or that it benefitted Shasta County residents. The “North State Builds” website states that it has partnered

⁴⁰ Organizations such as Better Business Bureau, Charity Navigator, and Charity Watch publish benchmarks for nonprofits with three key expense categories – program, management, and fundraising.

⁴¹ <https://northstatebuilds.com/political-action/current-endorsements/>.

with the California State Building & Construction Trade Council to offer a “pre-apprenticeship program” following the “Multi Craft Core Curriculum (MC3).” One class in 2022 for Shasta and Tehama counties is listed while all other classes are benefitting Colusa, Glenn, Yuba, Sutter, Butte, and Humboldt counties. There are no other dates of Shasta County specific information listed.⁴² There is also no curriculum or coursework listed as such at Shasta College, other than a Forest Training and Accounting Services apprenticeship unaffiliated with NCBCTC.⁴³ In addition, the North State Builds apprenticeship program is for surrounding counties,⁴⁴ and the bulk of the work listed for other counties would not be for the benefit of the Fountain Wind Project or jobs affiliated with a large-scale renewable energy project but for traditional building and construction trades like drywall, plumbing and painting.⁴⁵

Also, the one-time job fair and MC3 curriculum offered at NCBCTC’s office do not constitute the type of workforce development and training contemplated under AB 205. There is no prior record of holding such an event and no evidence that it has any benefit to Shasta County residents, workers and businesses other than that it will be held in Shasta County.

The alleged benefits that would come from this arrangement are clearly not based on “direct feedback from members of the community,” as the Applicant alleged in its June 2021 Community Benefit Program. More than likely, the Applicant has offered \$175,000 to this special interest

⁴² <https://northstatebuilds.com/north-state-builds-pre-apprenticeship-class-schedule/> (last accessed Dec. 19, 2023). The County has been unable to substantiate the claims at page 7 of the “Community Benefit Agreement” (TN253611) that the NCBCTC has “conducted five MC3 classes in Redding ... at both local Union member offices as well as Shasta Community Colleges,” or that “93 MC3 graduates have been placed into Union Apprenticeship Programs to date.”

⁴³ <https://www.shastacollege.edu/about/economic-workforce-development/apprenticeship/>.

⁴⁴ <https://northstatebuilds.com/north-state-builds-pre-apprenticeship-class-schedule/>.

⁴⁵ <https://northstatebuilds.com/construction-training/north-state-apprenticeship-programs/>. Electrician apprenticeships are held in Medford, Oregon. <https://0kyfd6.p3cdn1.secureserver.net/wp-content/uploads/2023/05/23-24-Schedule.pdf>

group in a thinly veiled attempt to try and buy its way into compliance without any consideration of the needs of the local community.

C. The Proposed Benefits Are Not a Meaningful “Benefit” Under AB 205

There are no similarities between NCBCTC and true community-based organizations that might qualify under Public Resources Code section 25545.10 or in the proposed “community-based” expenditures. A community-based organization is one with a demonstrated effectiveness that is representative of the community and provides educational services to individuals in a community.⁴⁶ Such an organization is usually a 501(c)(3) that provides programs and services to individuals in a particular local area with over half of its revenues dedicated to community education and programs. Here, NCBCTC is an association formed for the purpose of political donations at both the state and regional level, with no demonstrated record of services or workforce training to Shasta County residents.

In addition, in its original community benefits proposal submitted to the Commission, the Applicant proposed \$1,800,000 in Shasta County commitments to redevelop an elementary school, implement a fuel reduction project, expand rural internet, contribute to Tribal workforce development, and promote public safety. In its later, modified “plan” with the Foundation, the Applicant proposed \$2,900,000 to the Foundation for grants in the Shasta County unincorporated area. Now, and in the face of rejection of these proposals by organization throughout Shasta County and a denial by the Foundation, the Applicant proposes funding for member-driven, paid-for interests benefitting out of area workers, if any, with a small sum of \$175,000.

In its third and latest proposal, the Applicant has failed to show how paying \$175,000 to a special interest group whose goal is to advocate for its own interests would provide the type of

⁴⁶ See e.g., 20 U.S.C. § 7801(5).

meaningful community benefit envisioned under AB 205. Aside from the lack of benefit to the overall community, \$175,000 seems wholly insufficient to generate any real impact and pales in comparison to the approximately \$2,000,000, or even \$3,000,000, the Applicant claimed it would invest.⁴⁷ The funding associated with its original proposals was supposedly earmarked for local programs for education, public safety, fire protection, workforce development, and Tribal interests. The County struggles to understand why the Applicant would spend “two years listening to the community” but when faced with putting pen to paper would ignore actual community needs and instead offer a handout to a special interest group whose members at most represent but a small fraction of the Shasta County community, if they are representative at all. In fact, there is no empirical evidence that providing money to NCBCTC would benefit Shasta County at all or that the proposed jobs and workforce benefits would benefit anyone in Shasta County, as it is common knowledge that utility-scale renewable energy projects are built by trained workers that come from out-of-area locations across the state or nation. Irrespective of its intent and aims, \$175,000 to a trade council is not a meaningful benefit and the proposed agreement with the NCBCTC therefore does not satisfy the Applicant’s obligations under Public Resources Code section 25545.10.

Lastly, in its original “2021 plan” submitted as part of the application on January 3, 2023, the Applicant did not propose a community benefits agreement with NCBCTC and has never indicated that it was part of its plan. Rather, the Applicant included a support letter from NCBCTC, dated March 1, 2021, whereby NCBCTC only offered to host a hiring fair for tribal members based on the Pit River Tribe’s choosing as well as slotting tribal members into apprenticeship programs. As was clearly indicated in the Pit River Tribe’s objection and comments in this proceeding, the Pit River Tribe “vehemently” opposed the Project and indicated that “the misrepresentations by

⁴⁷ TN248296-2.

ConnectGen raise serious ethical and transparency concerns that demand immediate attention.”⁴⁸

It is clear then that the NCBCTC agreement should also be called into question because it has never been proposed to the Commission as required by 20 CCR section 1877 and NCBCTC’s original letter of support and commitment to tribal employment interest was false as the Pit River Tribe had no intention of availing itself of such programs that are affiliated with or stem from the Fountain Wind Project.

III. CONCLUSION

The Commission cannot allow the application to proceed further and cannot certify the Project because the Applicant has failed to show that it has entered into one or more legally binding agreements with, or that benefit, a coalition of one or more community-based organizations and in the timelines required by law. The County therefore asks the Commission to immediately dismiss the application and terminate the proceeding, or in the alternative, pause the proceeding and investigate the false claims of the Applicant.

Dated: January 4, 2024

Respectfully submitted,

By: 
Ryan M. F. Baron

⁴⁸ TN252625, *Pit River Tribe Comments – Objection to Fountain Wind Project* at 7-8 (Oct. 18, 2023).