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January 5, 2024

Henry Woltag
Fountain Wind LLC
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Houston, Texas 77002

Post Scoping Data Requests for Fountain Wind Project (23-OPT-01)

Dear Henry Woltag:

Pursuant to Public Resources Code section 25545.4(d), California Code of Regulations, title 14, section 15084(b) and title 20, section 1878(a), the California Energy Commission (CEC) staff is asking for the information specified in the enclosed data requests, which are necessary for a complete staff analysis of the Fountain Wind Project under the California Environmental Quality Act (CEQA). These data requests seek further information related to the Project Description and in the technical areas of Biological Resources, Traffic and Transportation, and Water Resources based on scoping comments received in response to the Notice of Preparation (TN 252898). In addition, the applicant failed to inform staff that the Burney Water District (BWD) would not be supplying water to the project even though that decision was made in September of 2023, during the CEC's initial information gathering phase. Given this change, staff will need more information about the onsite wells.

To assist CEC staff in timely completing its environmental review and to meet the requirements of Public Resources Code section 25545.4, CEC staff is requesting responses to the data requests within 30 days. If you are unable to provide the information requested or believe that additional time will be needed to provide a response, please send written notice to me within 10 days of receipt of this letter.

Finally, after a full review of the docket, staff cannot locate any document demonstrating Fountain Wind's compliance with California Code of Regulations, title 20, section 1876. Please provide the required verification of all materials submitted as part of the application pursuant to California Code of Regulations, title 20, section 1707, as required by section 1876.

If you have any questions, please email me at leonidas.payne@energy.ca.gov.

/S/

Leonidas Payne
Project Manager

Enclosure: Data Requests

BIOLOGICAL RESOURCES

BACKGROUND: Micro-siting Reports, Aquatic Resources, and Supplemental Surveys to Reflect New Species Listing and Age of Existing Data.

The California Department of Fish and Wildlife (CDFW) docketed their comments in response to the Notice of Preparation (NOP) on December 1, 2023 (TN 253469). Pursuant to Assembly Bill (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 & Game 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 submitted comments in its consultation role under AB 205 and the MOU.

CDFW recommends the Draft Environmental Impact Report (DEIR) include a detailed micro-siting report for every wind turbine proposed. The applicant's avian risk plans for nocturnal migrants (TN 248308-6), condors (TN 248307-1), and spotted owl (TN 248307-5) provided an overall review of current literature and applicability to the project but did not provide specific information for each turbine. The applicant prepared the Year 1 Avian Use Study Report and Risk Assessment (TN 248309-5) and Results of the Year 2 Avian Use Study (248309-1) to "*assess the relative abundance and spatial and temporal distribution of birds throughout the project area*" and "*evaluate the potential for adverse impacts to avian species.*" The reports analyzed fixed-point avian use surveys at 39 observation points located throughout the project area. According to the Year 1 Report, "*Plots were selected for viewshed and to survey representative habitats and topography within the Project area, while meeting ECPG [Eagle Conservation Plan Guidance] spatial sampling recommendations of at least 30% survey coverage of areas within 1.0 kilometer (km; 1.6 miles [mi]) of proposed turbine locations.*" Data on overall use and use for each survey plot was provided. The Risk Assessment discussed the avian use overall, species specific use, and compared the avian use results to Hatchet Ridge data. A micro-siting analysis for a specific placement of each turbine location and potential impacts to special-status species was not provided. Under Public Resources Code section 25545.4(d) additional information is necessary to address the comments from CDFW.

DATA REQUEST

1. Please provide a detailed micro-siting report for each wind turbine proposed. The report should include an analysis of the latest micro-siting science and field studies based on the topography of the proposed project area. The report should identify the methods for selecting turbine sites and any strategies that were used to reduce

potential impacts to avian species. High avian use areas and migration corridors that are located within the vicinity of proposed turbines should be analyzed.

BACKGROUND: Waters of the State

Under the Opt-in certification process, CEC has exclusive jurisdiction over the proposed project and is responsible for ensuring any certification of the proposed project complies with the Fish & Game Code and its implementing regulations and includes all conditions necessary to avoid, minimize, or mitigate substantial adverse impacts to fish and wildlife resources from lake or streambed alteration (Fish & G. Code, § 1602). Similarly, CEC is responsible for ensuring compliance with the Federal Clean Water Act (33 United States Code section 1251 et seq.) and the Porter Cologne Water Quality Control Act (California Water Code section 13000 et seq.).

The applicant provided an application to the CDFW for a Lake or Streambed Alteration Agreement and associated materials (TN 248329-1 through TN 248329-10). The 2019 Aquatic Resources Delineation Report (ARDR) was submitted as part of the LSAA application (TN 248329-4) and as a stand-alone report (TN 248307-2). The ARDR discusses aquatic resources that may be considered waters of the U.S. to support a Preliminary Jurisdictional Determination from the U.S. Army Corps of Engineers (USACE) but does not clarify if the extent or quantity of those aquatic features are the same acreages subject to CDFW or Regional Water Quality Control Board (RWQCB) jurisdiction. In many circumstances the CDFW jurisdiction is broader than the area defined as Waters of the U.S which uses different parameters to define waters under their jurisdiction. During a one-day site visit on November 14, 2023, conducted by staff and the applicant, it appeared that some potential waters may have been under mapped or overlooked. In addition, it was unclear how the delineation data defined CDFW jurisdictional waters. LSAA Figure 2 Aquatic Impacts (TN 248329-7) shows the limits of permanent impacts, temporary disturbance, and permanent vegetation clearing, but does not specifically call out the limits of CDFW or RWQCB jurisdiction. The LSAA Summary of Aquatic Impacts provides stream features to TOB (top of bank) and permanent vegetation clearing but does not provide information specific to riparian disturbance (permanent or temporary) or potential waters of the state (WOTS).

DATA REQUEST

2. Please provide an updated jurisdictional delineation that clearly identifies the limits of CDFW jurisdiction and RWQCB jurisdiction for aquatic resources within the project area. Please identify all potential impacts to those features (temporary and permanent). Please highlight docketed information if the data was previously submitted.

BACKGROUND: Supplemental Surveys

The CDFW comment letter noted that some of the biological reports and surveys completed for the project 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. CDFW recommended that additional focused surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, be conducted. In addition, species-specific survey procedures should be developed in consultation with CDFW. The CDFW noted that 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.

As part of staff's impact analysis, it is expected that pre-construction surveys for sensitive plants and wildlife will be required prior to ground disturbance should the project be approved. Initiating focused and protocol surveys for sensitive plants and wildlife in 2024, concurrent with staff's expected completion of the DEIR, will better inform the impact analysis as data becomes available and would be incorporated into the DEIR and Final EIR (FEIR). These surveys would also be required as part of the conditions of certifications and other measures required to comply with CDFW and other agency requirements.

DATA REQUEST

3. Please provide a survey plan that identifies when supplemental surveys for any survey over five years old would be initiated and provide the survey results when available.

BACKGROUND: Fuel Breaks and Potential Impacts to Sensitive Biological Resources and Jurisdictional Features

The applicant's presentation from the Public Scoping Meeting on November 28, 2023 (TN 253463) identified 687 acres of new shaded fuel breaks as a component of the project. The following information regarding shaded fuel breaks was also included on page 22 of the *Fountain Wind Project Impacts on Fire Behavior and Aerial Firefighting* (TN 253505), docketed on December 4, 2023, and states:

...[a] shaded fuel break will be maintained to 100 feet from the primary road's centerline, creating a fire break of 200 feet in width on ridgelines where roads exist. Secondary access roads are to have shaded fuel breaks extending 50 feet from the centerline of each road, and an area of approximately 2.5 acres around each of the turbines will be cleared of flammable vegetation (Barns, 2023).

The revised Project Description provided by the applicant on August 17, 2023 (TN 251663) does not include any reference to fuel breaks as part of proposed project activities, nor does it characterize access roads as "primary access roads" versus "secondary access roads." Furthermore, Table 2 (Project Components and Associated Impact Footprints) from the revised Project Description (TN 251663) states that

permanent impacts from access roads would be "...[u]p to 40 ft. wide corridor (20 ft. wide drivable surface with up to 10 ft. of cleared area on either side)."

DATA REQUESTS

4. Please provide a map of impacts to native vegetation communities and jurisdictional features associated with areas proposed as "shaded fuel breaks."
5. Please verify where proposed fuel breaks (shaded or non-shaded) will be constructed, and the size (i.e., width and total acreage) of these fuel breaks.
6. Please provide a maintenance schedule for these areas and indicate if herbicide would be used in these areas.

BACKGROUND: Water Supply and Potential Impacts to Sensitive Biological Resources and Surface Water Features

In a meeting with Shasta County representatives following the November 28, 2023 Informational and Scoping Meeting, CEC staff was informed that Burney Water District (BWD) would not be supplying water to the Fountain Wind Project (TN 253804). This information was confirmed by the BWD Board meeting minutes of September 21, 2023 (BWD 2023a) and further verified by staff by contacting David Zevely, District Manager for BWD, on November 30, 2023. If ground water is extracted to support construction and operation of the project, staff is concerned that existing surface water features including wet meadows and intermittent and perennial stream systems could be adversely affected depending on the location and depth of any water well.

DATA REQUEST

7. Please provide a hydrology study or other documentation that demonstrates that existing surface water features at the project site and in downstream areas would not be adversely affected from ground water pumping to supply facility water.

REFERENCES

BWD 2023a – Burney Irrigation District (BWD). Burney Irrigation District Board of Director's Regular Meeting Minutes. September 21, 2023. Available online <https://www.burneywater.org/files/4515683c9/BWD+Minutes+092123+Regular+Mtg.pdf>

PROJECT DESCRIPTION

BACKGROUND: Fuel Breaks

The applicant's presentation from the Public Scoping Meeting on November 28, 2023 (TN 253463) identified 687 acres of new shaded fuel breaks as a component of the project. The following information regarding shaded fuel breaks was also included on

page 22 of the *Fountain Wind Project Impacts on Fire Behavior and Aerial Firefighting* (TN 253505), docketed on December 4, 2023, and states:

...[a] shaded fuel break will be maintained to 100 feet from the primary road's centerline, creating a fire break of 200 feet in width on ridgelines where roads exist. Secondary access roads are to have shaded fuel breaks extending 50 feet from the centerline of each road, and an area of approximately 2.5 acres around each of the turbines will be cleared of flammable vegetation (Barns, 2023).

The revised Project Description provided by the applicant on August 17, 2023 (TN 251663) does not include any reference to fuel breaks as part of proposed project activities, nor does it characterize access roads as "primary access roads" versus "secondary access roads." Furthermore, Table 2 (Project Components and Associated Impact Footprints) from the revised Project Description (TN 251663) states that permanent impacts from access roads would be "...[u]p to 40 ft. wide corridor (20 ft. wide drivable surface with up to 10 ft. of cleared area on either side)."

DATA REQUESTS

8. Please define "shaded fuel break" as it pertains to proposed project activities. Will all fuel breaks be "shaded fuel breaks?"
9. Please verify where proposed fuel breaks (shaded or non-shaded) will be constructed, and the size (i.e., width and total acreage) of these fuel breaks.
10. Provide the following fuel break construction information:
 - a. The anticipated schedule for constructing the fuel breaks, and how this will be sequenced with other project activities.
 - b. Equipment required for fuel break construction.
 - c. Anticipated schedule for maintaining fuel breaks.
 - d. Equipment required for maintaining fuel breaks.
11. Provide the location of primary access roads versus secondary access roads.

BACKGROUND: Water Tanks

The applicant's presentation from the Public Scoping Meeting on November 28, 2023 (TN 253463) identified new 5,000-gallon water tanks as part of the project. The revised Project Description provided by the Applicant on August 17, 2023 (TN 251663) does not include any reference to 5,000-gallon water tanks.

DATA REQUESTS

12. Please provide details on the number of proposed water tanks and the location of each proposed water tank.
13. What would be the source of water to fill the proposed water tanks?

14. Please indicate if water trucks or other transport vehicles would be required to deliver water to the project site for project construction and operation use (e.g., concrete batch plant, firefighting, etc.).
15. If water would be trucked to the project site, provide details on where these vehicles would travel from, and the number of trips required to fill the water tanks.

TRAFFIC AND TRANSPORTATION

BACKGROUND: Safety Analysis

In their review of the Notice of Preparation for the Draft EIR for the proposed project, Caltrans District 2 staff provided comments regarding site access on the State Highway System (TN 253602). Specifically, Caltrans is requesting a safety analysis. Several elements of the safety analysis identified by Caltrans are not available in the applicant's docketed material.

DATA REQUEST

16. Please prepare a safety analysis of the planned access locations on the State Highway System that would include the following:
 - a. Traffic volume at the access locations (with and without the project)
 - b. Type of traffic entering and existing access locations
 - c. The postmiles designations of the access locations
 - d. Sight distance
 - e. Safety assessment

As appropriate, the safety analysis should provide mitigation for identified safety concerns.

WATER RESOURCES

BACKGROUND: Water Supply

In a meeting with Shasta County representatives following the November 28, 2023 Informational and Scoping Meeting, CEC staff was informed that Burney Water District (BWD) would not be supplying water to the Fountain Wind Project (TN 253804). This information was confirmed by the BWD Board meeting minutes of September 21, 2023 (BWD 2023a) and further verified by staff by contacting David Zevely, District Manager for BWD, on November 30, 2023. The Water Supply Assessment (WSA) (TN#248320-1) prepared for the project application identified BWD as one of two options for water supply; the other was groundwater extraction from on-site water well(s) located near the proposed operation and maintenance (O&M) building. Given the loss of BWD as a water supply alternative, additional information regarding groundwater extraction is reasonably necessary to prepare the environmental impact report.

The WSA concedes that groundwater storage conditions are unknown: “*The amount of groundwater in storage in the fractured volcanic deposits underlying the Project Site is unknown owing to the lack of defined basin boundaries and saturated layers for the storage of groundwater.*” In addition, the WSA conclusion that the proposed annual operational water use of 5.6 acre-feet (AFY) “*represents a de minimis use*” in comparison to local water well use may be flawed. The WSA utilizes the per capita use targets prepared by the City of Redding for its Urban Water Management Plan (Redding 2021); however, these targets are representative of a mixed water supply of imported surface water and groundwater from an alluvial aquifer, not solely groundwater from fractured rock.

Moreover, of the seventeen City of Redding groundwater extraction wells, the lowest capacity is 95 gallons per minute (GPM) (Redding 2023), while based on the well completion reports for four water wells installed within the last 30 years in the vicinity of the project site, the tested well yield ranged between 12 and 29 GPM and averaged about 20 GPM (DWR 2023).

Appendix B (g) (14) (E) (ii) of title 20, California Code of Regulations requires that if the project will pump groundwater, aquifer drawdown should be estimated using computer modeling conducted by a professional geologist that considers the impact to neighboring water wells and the likelihood of any changes in existing physical or chemical conditions of groundwater resources.

DATA REQUEST

17. Please conduct computer modeling to estimate the impact to the fractured rock aquifer at the project site. If there is insufficient data to support computer modeling, aquifer testing at the project site may be necessary. Please verify that there are no existing water wells within ½ mile of the proposed groundwater extraction well(s) near the proposed O&M facility. If neighboring water wells do exist within the ½ mile zone, drawdown impact to the well should be incorporated into the computer modeling or aquifer testing program. The evaluation of the groundwater modeling, or aquifer testing if necessary, should include a discussion of groundwater extraction impacts to the resource per Appendix B (g) (14) (E) (ii) of title 20, California Code of Regulations.

REFERENCES

BWD 2023a – Burney Irrigation District (BWD). Burney Irrigation District Board of Director’s Regular Meeting Minutes. September 21, 2023. Available online <https://www.burneywater.org/files/4515683c9/BWD+Minutes+092123+Regular+Mtg.pdf>

DWR 2023 – Department of Water Resources (DWR). Well Completion Report Map Application. Available online:

<https://www.arcgis.com/apps/webappviewer/index.html?id=181078580a214c0986e2da28f8623b37>

Redding 2021 – City of Redding (Redding). 2020 Urban Water Management Plan. November 2021. Available online:

<https://files.cityofredding.gov/Document%20Center/Departments/Water/Additional%20Resources/2020%20UWMP%20FINAL.pdf>

Redding 2023 – City of Redding (Redding). Water Utility Master Plan 2023. July 2023. Available online:

<https://files.cityofredding.gov/Document%20Center/Departments/Water/Additional%20Resources/Water%20Utility%20Master%20Plan%20.pdf>