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Pit River Tribe Objection to Fountain Wind Project

Navigating Contrary State Policy Initiatives within Pit River Tribe Ancestral Territory

Additional submitted attachment is included below.

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March 26, 2024

VIA CEC_Docket 23-OPT-01

RE: Pit River Tribe Opposition to Fountain Wind Project— Navigating Contrary State Policy Initiatives within Pit River Tribe Ancestral Territory

Dear Commissioners,

We appreciate the opportunity to provide additional input into the record regarding the Fountain Wind Project Application (“Application”). Upon further discussion within the Pit River Tribe regarding the Application, we identified a policy conflict that we believe relevant in the evaluation of the Application. The Pit River Tribe is grappling with conflicting policy goals as it awaits the California Energy Commission (“CEC”) decision on the Application, while at the same time is pursuing a Tribal Nature-Based Solution Grant application (“TNBS”) submitted to the California Natural Resources Agency (CNRA). This application would fund the acquisition of ancestral land that is adjacent to the proposed Fountain Wind, LLC wind-turbine project.

This situation highlights a lack of uniformity in policy between different state entities and highlights another reason why local decision-making is best for a project such as this. The Tribal Nature-Based Solutions Grant Program, bolstered by over \$100 million allocated to the CNRA, is part of the State's commitment to supporting tribal initiatives directly benefiting Native American communities. It champions collaboration, empowerment, and conservation, emphasizing sustainable practices and the restoration of ancestral lands—a stark contrast to the potential environmental repercussions posed by the adjacent large-scale industrial wind turbines to be erected on 4,463 acres of forested, mountainous land, which adds 19 miles of new roads and 19 miles of road expansion.

While the TNBS grant program seeks to prioritize tribal-led solutions that incorporate tribal traditional ecological knowledge and align with broader conservation objectives, the wind-turbine project would conflict with the land return effort. The potential risks associated with industrial wind turbines, including habitat disruption and threats to biodiversity, stand in stark contrast to the sustainable environmental stewardship model advocated by the land return to the Tribe using the TNBS grant funding due to its proximity, and the impacts that would result from the project.

Adding to the complexity of this situation, the Pit River Tribe has recently taken a momentous step by transferring forty (40) acres of property adjacent to the proposed industrial wind project into Federal Trust. This strategic move not only highlights the Tribe's unwavering commitment to preserving its ancestral lands surrounding and including the Fountain Wind project site, but also reflects the Tribe's use of its limited resources to maintain a harmonious relationship with the environment for the benefit of the Tribe and its citizens.

MADESI

ATWAMSINI

ATSUGEWI

ASTARAWI

APORIGE

AJUMAWI

HAMMAWI

HEWISEDAMI

ILLMAWI

ITSATAMI

KOSEALEKTE

Land Return to the Pit River Tribe- Tribal Nature-Based Solutions Grant Application

As stated above, the Tribe is actively pursuing the acquisition of property through the TNBS Grant for state-sponsored land return. The TNBS grant is one small measure of restorative justice for the state-sponsored genocide and land grab that occurred in the early days of California statehood. The purpose of the acquisition is to repatriate 576 acres, including the 40-acre “Smith Camp” parcel, located Shasta County off Big Bend Road near Montgomery Creek, CA. The land, currently owned by Shasta Cascade Timberlands (SCT), would be transferred back to the Pit River Tribe via a fee-simple transfer. Smith Camp has been occupied continuously since the mid-1970s by members of the Madesi band of the Pit River Tribe and have long sought to acquire the land. Planning costs to prepare all necessary project documents will be covered by grant funds.

The TNBS proposal expands the footprint of Smith Camp to include areas of working forest as well as an important section of Hatchet Creek containing the Hatchet Creek Falls (also known as Lion’s Head Falls) which has spiritual and ceremonial significance to the Madesi Band of the Pit River Tribe. The proposed transfer of the 576-acre parcel via TNBS grant funding was unanimously supported by the Pit River Tribal Council on September 27, 2023. The application was selected by CNRA to move forward to the second round of review and the Tribe is presently pulling the second-round application together for submission later this month.

It is important to note that the Tribe has been seeking to acquire this property for decades. In 1998, Pit River occupiers of what is called “Smith Camp” were offered an opportunity to take over the land, which is currently owned by the Simpson Timber company.¹ Unfortunately, a lack of capacity within the Tribe at that time prevented the transfer from occurring.

Smith Camp has been a point of contention between the Tribe and the timber company for nearly four decades, based on the Tribe’s belief that the land was illegally acquired by Simpson during homesteading. It is located within the Madesi Band’s aboriginal territory and is occupied by Madesi families. Smith Camp residents have been adamant in their refusal to leave and have erected several structures and house trailers. They have created a boundary line that they protect, with force if necessary. Even forest service officers and field workers avoid conflicts with Smith Camp residents, because they have made it clear that they will not leave without a fight.

The timber company and the Forest Service have, however, found ways to make life difficult at Smith Camp. There is no running water because it is landlocked and there are no nearby municipal hookups. The residents could try to drill a well, but the expense is beyond their available resources. Luckily, there are naturally occurring springs that supply water, but the residents must continually guard the water supply from contamination from aerial herbicide spraying and manual spraying by Simpson in their timber management practices. There have been several instances where Smith Camp residents have challenged helicopters that were about to release pesticides

¹ Pit River Tribal Resolution 98-45, “To transfer lands from Simpson to the Pit River Tribe”.

extremely close to Camp and the water supply. In one instance a Pit River citizen was doused with herbicides.² In several other instances, the residents threatened the helicopters with guns drawn.³

There is also no police or fire protection for Smith Camp. This problem resulted in a battle of wills in 1993 when the region was in the midst of a fire storm called the “Fountain Fire.” The residents refused to leave Smith Camp because they feared that they would be prevented from returning. Instead, several chose to stay and battle the fire with buckets and spring water. They suffered some structural losses, but no one was seriously injured. The residents who did choose to leave were prevented from returning for several weeks, but the few that stayed behind made sure that the camp was not destroyed by fire, or the timber company.

In late 1997, discussions began between the tribe and Simpson as to the possibility of returning Smith Camp to the Indians.⁴ Unfortunately, as stated above, a lack of capacity within the Tribal government prevented the acquisition, but today, the dream is very much alive due to the TNBS land return funding. It must be stated that the CNRA grant is only one strategy for the acquisition, and it would result in restrictions on the use of the land to be consistent with State-approved Nature-Based Solutions that require active cultural management and climate resiliency measures in place. If the funding is not obtained, the Tribe will never stop seeking a way to return the land to the Tribe.

The land return effort underscores the Tribe’s proactive stance in rectifying historical injustices and reclaiming tribal ownership and stewardship. In essence, the lands to the northwest and west of the potential industrial development are poised to become tribal lands, managed with environmentally sound and restorative methods, showcasing the Tribe’s holistic approach to land preservation. This stands in contrast to the trajectory of a large-scale industrial wind project and its environmentally insensitive land use practices.

The Pit River Tribe’s grant application for land return adjacent to the wind-turbine project raises questions about the uniformity of action across different state entities. While the CNRA seeks to empower tribes and address historical injustices, the scenario presents a potential clash with the CEC, which might prioritize private economic interests over tribal concerns.⁵ These dynamics underscore the need for consistent and aligned decision-making processes across various agencies to avoid contradictions in environmental and cultural stewardship efforts.

² Interview with Angel Winn, resident of Smith Camp, May 2, 1998.

³ *Id.*

⁴ *Id.*

⁵ We do not believe that the Application will result in a local benefit, will not be carbon-neutral and will inflict serious environmental harm to the community. The only benefit will be an economic benefit to the developer. There are many alternatives to this project, as well as many existing wind-turbines across the State that are sitting idle. A trip through the San Geronio Pass will show the CEC such a situation—where the environment is sacrificed for wind turbine projects, and they sit idle today.

The Pit River Tribe's reality epitomizes the challenges and contradictions within the broader context of environmental initiatives in California. It underscores the importance of ensuring that the commitment to tribal-led solutions, as exemplified by the CNRA's grant program, is not undermined by conflicting decisions made by other entities like the CEC. This scenario highlights the necessity for continued advocacy for the restoration of ancestral lands and the meaningful inclusion of tribal voices in decision-making processes to create a more equitable and resilient future for the Tribe and the community.

Contrast With the Federal Land Buyback Program and National Monument Effort

In 2023, the Department of the Interior concluded the Land Buy-Back Program for Tribal Nations, a monumental effort aimed at consolidating and restoring nearly 3 million acres of land to Tribal ownership across 15 states. This initiative, driven by a commitment to rectify past injustices and empower Tribal communities, stands in stark contrast to the Fountain Wind project that raises questions about land use decisions impacting Native American ancestral lands.

The Land Buy-Back Program, allocating \$1.69 billion to over 123,000 individuals, reflected a broader acknowledgment of the intrinsic value in Native American practices and the imperative to address historical wrongs. Secretary Deb Haaland, the first Native American to lead the Department of the Interior, emphasized the program's pivotal role in restoring power to Tribal communities, promoting conservation, and supporting economic development on their ancestral territories.

Assistant Secretary for Indian Affairs, Bryan Newland, echoed the importance of Tribal majority ownership, highlighting streamlined trust management processes, upholding Tribal sovereignty, and fostering a government-to-government relationship that respects unique cultural and environmental stewardship practices.

In contrast to this landmark program, concerns arise when juxtaposing it with the CEC's current investigation on whether to hand over 4,463 acres of forested, Pit River Tribe ancestral land to a wind-energy project company. This investigation, seemingly at odds with the principles of empowerment and conservation championed by the Land Buy-Back Program, prompts a critical examination of the differing approaches towards Native American lands.

While the Land Buy-Back Program prioritized collaboration and respects Tribal sovereignty, the land-use permitting for a wind-energy project raises questions about potential environmental repercussions, habitat disruption, and threats to biodiversity. The decision appears to diverge from the movement recognizing the wisdom in Native practices and restoring lands to their rightful stewards.

As the Land Buy-Back Program marks a groundbreaking achievement and points towards a national shift in acknowledging the importance of Native American practices, the divergent decisions made by other entities emphasize the need for consistent and aligned decision-making

processes that must be translated into actionable steps at the state level. It is imperative that the CEC draw these conclusions down into tangible state-level actions that prioritize collaborative, sustainable, and culturally sensitive approaches to land use decisions impacting Native American ancestral lands. This calls for an outright denial of industrial projects such as these, on lands such as these.

Tribal Pursuit for Medicine Lake Highlands (*Sáttítla*) National Monument Designation

While the proposed large wind project is situated approximately 60 miles from Mount Shasta and not directly within the Medicine Lake Highlands, it serves as an example of the broader actions by the Pit River Tribe to secure protection for the lands within their territory. The Tribe's appeal to President Biden and California's federal delegation brings attention to the potential conflicts between renewable energy initiatives and the preservation of culturally and ecologically significant areas.

The specific request for national monument designation protections for the Medicine Lake Highlands, despite its distance from the proposed wind project, reflects the Tribe's steadfast commitment to safeguarding approximately 200,000 acres of this region. Beyond its cultural importance to the Pit River Tribe, this area is recognized for its ecological richness and biodiversity.

Large-scale wind projects in environmentally sensitive regions, even if not in immediate proximity, can still pose a threat to the delicate balance between development and conservation. National monuments, designed to protect areas of historical, cultural, or scientific importance, are essential tools for safeguarding ecosystems. The potential disruption caused by the construction of turbines, access roads, and related infrastructure could have far-reaching consequences on the local flora and fauna, as well as the visual and cultural integrity of the landscape.

Moreover, the pursuit of wind energy in this context underscores the broader challenge of reconciling environmental goals with the potential for commercial resource exploitation. While wind energy represents an alternative to traditional fossil fuels, the siting of large wind projects in ecologically significant regions may lead to unintended consequences.

In essence, the Pit River Tribe's plea for national monument designation protections for the Medicine Lake Highlands not only highlights the immediate tension between renewable energy development and land conservation principles but also showcases the Tribe's proactive stance in safeguarding their broader territory. Striking a balance between sustainable energy solutions and the preservation of vital landscapes necessitates careful consideration of potential impacts and exploration of alternative approaches that prioritize both environmental sustainability and the protection of cultural heritage.

Conclusion

In conclusion, the juxtaposition of the Pit River Tribe's pursuits – the Tribal Nature-Based Solutions Grant for land return, the challenges surrounding Smith Camp, and the advocacy for the Medicine Lake Highlands national monument designation – paints a complex picture of the Tribe's unwavering commitment to environmental stewardship and cultural preservation. The Tribe's simultaneous engagement in state-sponsored initiatives like the TNBS grant program, coupled with the challenges faced in reclaiming ancestral lands, underscores the need for consistent and harmonized decision-making across various state entities including the CEC.

As the Tribe seeks to rectify historical injustices and repatriate ancestral lands, the potential approval of the Fountain Wind Project by the CEC raises concerns about the alignment of state actions. The contrast with the federal Land Buy-Back Program's success in restoring Native American lands emphasizes the imperative for California to adopt similar principles in its land-use decisions.

The Pit River Tribe's plea for national monument designation for the Medicine Lake Highlands, while not directly affected by the proposed wind project, showcases the Tribe's broader commitment to conservation and cultural heritage. It highlights the potential conflicts between renewable energy development and land conservation principles, urging a careful evaluation of alternative approaches that prioritize both environmental sustainability and cultural preservation.

In essence, the Pit River Tribe's multifaceted endeavors underscore the importance of maintaining consistency and alignment when the state is making its decisions concerning tribal lands. It is crucial for California to uphold the principles of collaboration, empowerment, and conservation, as exemplified by successful federal programs, in order to forge a more equitable and sustainable future for the Tribe and the broader community. The Tribe's proactive stance in safeguarding its territory serves as a poignant reminder of the delicate balance required in addressing environmental challenges while respecting indigenous rights and cultural heritage.

Sincerely,

A handwritten signature in black ink, appearing to read "Yatch Bamford". The signature is fluid and cursive, with the first name "Yatch" written in a stylized, elongated manner.

Yatch Bamford
Tribal Chairman