

HUMBOLDT WIND, LLC HUMBOLDT WIND ENERGY PROJECT



TOWN OF SCOTIA COMPANY, LLC COMMENTS ON DRAFT ENVIRONMENTAL IMPACT REPORT (SCH. No. 201872076)

Comments must be directed to:
Humboldt Wind Energy Project Planner

County of Humboldt Planning Department

3015 H Street

Eureka, CA 95501

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June 12, 2019

Humboldt County Planning and Building Department
Eliz Burks
3015 H Street
Eureka, CA 95501

RE: DEIR SCH #2018072076

Dear Ms. Burks,

INTRODUCTION

On behalf of the Town of Scotia Company, LLC (“Town of Scotia” or “TOS”) which owns and operates most of the residential, commercial, and institutional properties in the community of Scotia, CA, we present our responses to and comments upon the Draft Environmental Impact Report (DEIR) for the proposed Humboldt Wind Project (“Project”) to be located immediately adjacent to, south and southwest of Scotia and on Monument and Bear River Ridges.

After careful consideration and close review of the DEIR, Town of Scotia hereby joins with entities and organizations such as the City of Rio Dell, the Wiyot Tribe, Scotia Community Services District and others in urging the County to reject this DEIR as inadequate, inaccurate and inconsistent with the CEQA. We believe this Project could irreparably damage our environment and materially impact our community, and we urge the County to adopt the identified environmentally superior alternative of “NO Project”.¹

TOS supports well planned alternative energy projects, sited in appropriate locations. However, this project, as proposed, is none such. It will cause several significant adverse, unmitigated and unavoidable impacts to our community.

EXECUTIVE SUMMARY OF COMMENTS AND CONCERNS

FALSE WATER SUPPLY CLAIM

For one thing, the DEIR and appendix T provides an erroneous water supply claim and analysis, asserting that effluent from Scotia’s sewer plant which is not secured, not suitable or legally available to the Project will provide the 62 acre ft of construction process water resources needed to create concrete, abate dust, compact soil fills and wash down equipment. We address this glaring error in Section I of our specific comments.

¹ Town of Scotia hereby adopts and incorporates by reference the comments and DEIR responses submitted on behalf of the aforementioned organizations and entities in order to exhaust administrative remedies in the event of litigation.

UNAVOIDABLE ADVERSE AESTHETIC IMPACTS

Scotia is surrounded by scenic vistas, predominantly including Monument and Bear River Ridges, and many of our tenants and home buyers choose to live, work and recreate in Scotia particularly because of our outstanding visual surroundings.

Should the project be built-out as planned, those surrounding will be forever adversely changed. The DIER declares these impacts to be *unavoidable*. No mitigation can adequately ameliorate the material injury to our community. We address adverse visual impact more particularly in Section II of our comments.

While visual impacts are a primary concern, our comments also focus on the unmitigated and significant adverse impacts the proposed project would have on the following values:

- Scotia's status as a Special Historic District of statewide, even national significance (discussed in Section III of our comments);
- Solid Waste;
- Agricultural and Forestry Resources;
- Geology and Soils, erosion;
- Greenhouse Gas Emissions;
- Hazardous Materials;
- Safety Hazards from use of Explosives;
- Operational Hazards;
- Hydrology and Water Quality;
- Transportation and Traffic;
- Fire Safety, Protection, Risk Planning;
- Biological Resources;
- Murrelets, Raptors, etc.

FAST TRACK, SHORT CIRCUIT

For *most all* of these impacts, analysis has been deferred, delayed to a later time, when not-yet-devised studies, plans, programs or managements schemes are intended to provide more complete insight into the significance of potential impacts or to provide mitigation to ameliorate those impacts. This "Rush job" serves the interest of Terra Gen, but not of the public or the purposes of CEQA. The haste to "fast track" his project has driven the EIR consultant to improperly truncate its analysis and to rely on subsequent preparation of plans *Not Subject to Public Review* to resolve almost all legitimate concerns.

PIECEMEAL REVIEW TO HIDE IMPACTS

This strategy also seeks to break-up the project impact and mitigation analysis into dozens of "black box" processes, submitted *after project approval and certification* of environmental review. These plans are often to be provided only to the County Planning Director or some other agency, thus "piece-mealing" the review to minimize or manipulate impacts. The Practice is so heavily relied upon, and so often employed, as to be elevated to an art form in the DEIR. In Section IV of our comments, we have specifically identified *dozens* of instances of deferred analysis and manipulation in the DEIR.

As a consequence, the DEIR is bereft of credibility; hollow of substance much more baldface advocacy than dispassionate analysis. A more fulsome DEIR must be assembled and recirculated for public review.

LEGITIMATE ALTERNATIVES IGNORED

TOS also objects to the failure to consider or evaluate far-superior alternatives such as, *off-shore* wind power projects, one of which has recently been the subject of planning, preparation and public discussion.

Off-Shore Wind Energy Option Superior

RCEA, Principal Power, Inc., EDPR off shore North American, LLC and Aker Solutions, Inc. recently submitted a lease application to the Bureau of Ocean Energy Management for a comparable off shore wind energy farm. That project promises to be far superior, without almost any of the significant unavoidable adverse impacts identified to result from this Project.

On-Shore Wind Generation Alternative Sites Not Examined

We also recognize that there are other alternative locations from *on-shore* wind turbine generation which would not pose the same adverse impacts to so many innocent residents, tenants, homeowners, workers, and visitors in and around the “ground zero” communities Scotia and Rio Dell. For some reason, these alternatives were not considered in the DEIR.

An example is the “Schoolhouse Hill” area near Kneeland just west of the PG&E Bridgeville Substation. Prior study has yielded “wind maps” produced by the National Research Energy Laboratory (NREL). In reference to these maps, wind characteristics on Schoolhouse Hill are very similar to those on Bear River and Monument Ridge.

Many of the significant adverse visual impacts posed by this project could be eliminated all together. This alternative should be given a good faith analysis and that evaluation should be recirculated for public review.

Town of Scotia has the following specific comments and concerns regarding the project and the DEIR.

I. False Water Supply Analysis.

The Project does not have a reliable source for construction process water.

The DEIR asserts [at 3.1.3 Utilities (p.3-8) and in the Draft Water Supply Appendix T (3-1) "Water Supply Planning/Project Water Supply and Demand,"] the project will require 62 acre feet (20,202,789 gallons) of water for construction activities, like road-watering/ dust suppression, concrete mixing, soil backfill compaction and equipment wash-out, etc.

- The DEIR erroneously asserts this mass volume of a project cited essential resource will come from the partially treated wastewater effluent from the nearby *Scotia Community Services District's (SCSD) Scotia Log Pond*. That is simply inaccurate, and impossible.

- As the SCSD District Staff has explained at its public Board of Directors' meetings, and in its DEIR comments, No one -- not the Applicant Terra Gen, or the County or the EIR Drafter AECOM -- has ever even approached the Community Services District about using that log pond water. If they had, the proposed use would have been rejected as an unpermitted use.
- The Log Pond property, the Sewer Treatment Plant (of which the Pond is a part), as well as the Drinking Water Treatment Plant, and the very Eel River Water Rights and Community Water System Permit for the entire town of Scotia are all owned, operated, licensed and permitted by the Community Services District (SCSD).
- Under SCSD's current National Pollution Discharge Elimination System (NPDES) permits, that sewage effluent water may not be bought, sold or traded for use off-site, outside of Scotia; nor may it be exported by water truck or any other means or to any other location.²
 - In fact, the 'water' in the Log pond is comprised of incompletely treated sewer plant effluent, and even if it was legally available -- which is not the case -- it is not suitable for construction.
 - The pH from HRC Power Plant operations effluent which also discharges through a ditch into the Log Pond, [for example], varies significantly (up to a caustic pH 14), and inputs from industrial processing at the HRC Sawmill and power plant are often out of compliance with the regulatory standards for discharge into and out of the Log Pond.
- There probably is not 62 acre-feet of water in the entire Log Pond, but even if there was, a substantial level of the Scotia Log Pond water is always retained as a "last means of defense" as a fire suppression source. Neither the SCSD nor the Community would sell off that "last defense" source.
 - In 1992, after three earthquakes of substantial magnitude over a couple days, power and water pressure were both lost in Scotia, gas leaks ensued, fire erupted, and the Scotia Shopping Center market and adjacent commercial buildings began to burn.
 - The entire block of the Scotia Center was destroyed over the next couple days, but with herculean effort, and drawing water for fighting fires directly from the Log Pond, the historic Winema theater and other nearby priceless historic facilities (Scotia Museum, Hospital, etc.) were saved.
- The terms of the NPDES Permit are clear and *prohibit* the DEIR proposal Log Pond effluent use, which is simply *presumed* by the DEIR writer, without substantial evidence in support of the assertion or any other basis or analysis in the DEIR whatsoever.
- We understand, from recent SCSD Board proceedings, that the SCSD is now considering an agreement for placement of floating Solar (photo-voltaic) panels on the surface of the Scotia Log Pond, and any withdrawal of heavy industry

² Note: The comment writer personally negotiated the NPDES permit with Regional Water Quality Control Board staff for the Scotia Waste Water Treatment Facility (WWTF). Town of Scotia then conveyed the WWTF as well as the Log Pond, water rights and all the relevant real and personal property to the Scotia Community Services District in 2016, and it has operated independently as a public agency since.

construction process water would be inconsistent with that reasonably foreseeable proposed alternative energy project going forward.

- The DEIR contains a flawed and simply incorrect Water Supply analysis. That is obviously a key part of any proposed construction project of the size and scope of Terra-Gen's industrial scale wind factory, and the water availability analysis must now be completely revised.
- New source evaluation will require new impact analyses for such an extraordinary volume of water, required for so many project functions. That significant new information must be made available for meaningful public review and comment, and the DEIR must be *recirculated*.

II. Aesthetics.

Adverse impacts to aesthetic values of the town of Scotia, its resident tenants, homeowners, workers, visitors and tourists, is perhaps the single most prevalent and most often expressed concern about the Project. Town of Scotia Company, LLC hereby joins such organizations as the Wiyot Tribe, the City of Rio Dell, the Scotia Community Services District and local community members, environmental and conservation organizations in opposition to the Project placement on Bear River Ridge and/or Monument Ridge, both of which loom over Scotia and Rio Dell as the most prominent landscape features of the scenic vistas surrounding our special communities.

The DEIR employs visual resource assessment methodologies based upon Federal Guidelines for visual impact assessment on highway projects. This is an inappropriate methodology. Based on that analysis, the aesthetic impact of the Project is broken into physical perspectives and assigned components of “cultural order” and “natural harmony”, including subjective elements such as “vividness”, “intactness”, and “unity”. All of this appears to be an effort to breakdown and measure with precision what is admittedly a subjective, though common sense, determination.

- The analysis concluded that the Project will have *significant adverse, unavoidable impact* upon the current scenic vistas of the ridges above Scotia, even after mitigation.
- No basis or reasoned analysis, no substantial evidence is presented to support an argument for *overriding* these concerns over threatened adverse impacts.

Town of Scotia Company, LLC (TOS) has a special interest in maintaining the historic integrity and scenic coherence of the town of Scotia because it *owns most of the town*.

- TOS acquired such ownership by distribution from the bankruptcy estate following reorganization of the Pacific Lumber Company in 2007.
- All of the residents in Scotia are either *tenants* who live in houses owned by Town of Scotia Company or *homeowners* who have purchased their home from the Town of Scotia Company in the last 2 or 3 years in connection with the planned subdivision and privatization of the former company town as a part of the Reorganization Plan.

- In addition, the Town of Scotia Company is required to disclose pendency of this significantly impactful industrial wind factory Project to prospective purchasers under standard subdivision and real estate marketing law.
- The DEIR admits that the visual impact of this prospective project will be significant and adverse to the town of Scotia. We reasonably fear the visual blight of an industrial mechanized wind factory that will forever affect the heretofore open, undeveloped pastoral hillslopes and ridges that rise steeply from the Eel River along which Scotia is located. The photo visualization attached from Terra-Gen, which probably minimizes the impact to Scenic Vistas in Scotia, is reflective of those visual impacts. Ugly. Inconsistent. Unnecessary.

Impact 3.2-1

The DEIR admits the Project’s introduction of wind turbine generators would be noticeable at all viewing distances throughout Scotia, and these tall vertical structures would degrade visual quality. This impact would be significant. The Project is, therefore inconsistent with the General Plan.

- The General Plan recognizes the importance and seeks to protect all scenic vistas throughout Humboldt County.
- “Scenic Beauty is perhaps the most notable characteristic of Humboldt County for visitors and one of the most appreciated attributes among residents. Forested hillsides, working agricultural land, river corridors, and the coast provide a range of stunning scenic areas. Certain of these are exemplary and warrant protections to maintain the County’s characteristic scenic beauty and unique sense of place. (“Humboldt County General Plan Section 10.7.2” Scenic Resources.)
- However, the DEIR turns this proclamation on its head. “The General Plan does not identify specific scenic vistas. Because the General Plan does not identify *specific* vistas from which the Project impacts could be assessed, construction, operation or decommissioning of the Project would result in *no impact* on scenic vistas as defined by the General Plan.”

This last summary and conclusion is characteristic of the DEIR’s reliance upon non-sense rather than analysis, so often reaching a conclusion without any support in the record and contrary to logic or common understanding.

- At least regarding relevant *criteria*, we agree with the DEIR that the “relevant CEQA criterion is whether the proposed Project would substantially degrade the existing visual character or quality of public views of the site and its surroundings.” (Page 3.2-34).
- The answer here is absolutely “yes”. There would be a substantial degradation of the existing visual character of the site and its surroundings.
- The DEIR states that “ground disturbance to widen shoulders and cut and fill slopes, WTG pads, staging/equipment laid down areas, and batch plant pads would result in both adverse impacts on scenic vistas along Bear River ridge and on the visual character of the ridges viewed from surrounding locations.”

- The DEIR further states that grading, compaction and vegetation removal would increase the potential for erosion, which could further degrade the visual resources along the ridge.
- Humboldt County General Plan Standard E-S3: Wind Generating Facilities specifies that wind generating facilities are conditionally permitted in most land use designations. However, the standard requires consideration of both the *height* and *appearance* and design of those facilities.
- General Plan requires as a *necessary finding* for project approval that those facilities **Not** be detrimental to the public convenience or welfare, and will **Not** result in material damage or prejudice to other property in the vicinity. (Standard ES-3 B, E, & C). Those finding can not be made or supported here, and no effort is made, or evidence presented, to do so.

For all these reasons, the Project is inconsistent with Humboldt County General Plan and should be rejected.

- The DEIR finds that “across all viewsheds, analyzed in detail in Appendix C, the WTG’s would....create a strong contrast visually with the broader horizontal lines of the horizon.”
- “Spinning the rotor blades would further contrast with the most static elements in the view..... WTG’s would appear silhouetted above the ridge top trees”. “Thus the Project would redefine the skyline”.
- “For many of the Key Observation Points... vividness would be increased because of the addition of memorable features in other KOP’s.”
- “Introducing a wind generation facility into landscapes that predominantly feature rural residential and agricultural uses would generally reduce the compositional harmony of these views.....”(3. 2-54 passim. emphasis added).

Further conflicts with the General Plan Policies and Standards include the following regarding Facility Operations:

- “In this view “KOP3” (Scotia Main Street) the WTG’s would appear prominent human-made features above the forested ridgeline in the background.the presence of the WGT’s would increase the memorability of human-made features; the motion of spinning rotor blades and the darkened structures, backlit in views to the south from Scotia would be noticeable.”

These are impacts that will affect the aesthetics as perceived from the town of Scotia, essentially forever. 600 foot towers are approximately the size of *55 story skyscrapers!* This is what will be remembered of one’s visit to Scotia. To have up to 60 of these mechanisms marching across the scenic vista of the undeveloped ridges above Scotia certainly increases the “vividness” of the experience, but like a train-wreck, that ”vivid” experience is entirely negative.

Under the General Plan policies the scenic beauty of Humboldt County is deserving of protection, not exploitation. The DEIR has already found these impacts to aesthetics will be significant, adverse, unavoidable, even after mitigation. Therefore, the Planning Commission or the Board of Supervisors would have to find *overriding considerations* in order to even consider approving this Project. No reasoned argument is made in the

DEIR for considerations overriding these important General Plan policies in the face in this administrative record.

III. Cultural Resources: Scotia Historic District.

The DEIR concludes that the Project, including full build-out as applied for, will have no significant adverse effect on Historic Resources in Scotia. We disagree. The construction of the Project as well as its long term operation would have a significant and adverse unmitigated impact upon the special sense of place which contributes to the cultural and historical significance of the town of Scotia.

This special significance has been recognized by the County both in requiring and certifying a Historic Resources Assessment in connection with town development projects and subdivision, and in the County's adoption of a Special Historic Resource Zoning Designation and Historic District Zoning Code Regulations applicable to *Scotia alone*. (Humboldt County Zoning Code Regulation §§19.1.19 et seq.)

Scotia Historic Resource Assessment

- In a wide ranging and relevant certified EIR completed in 2009 in connection with the Scotia town-wide General Plan Amendment, Rezone, Zoning Code Text Amendment, major subdivision, and associated application for creation of the Scotia Community Services District, the County required preparation of a Historic Resources Assessment (Gerald Takano, TBA West Inc. 2007).
- As the DEIR admits that Historical Resources Assessment determined that Scotia meets eligibility requirements for registration on the National Register of Historic Places (NRHP), under the regulations adopted by the Secretary of Interior. (3.6-11).
- Among other DEIR findings supporting the conclusion that the Project would have a significant adverse impact upon Historical Resources are the following:
 - “The potential Historic District is significant under NRHP criterion A for having the oldest surviving mill of its type in lumber production and for association with development of the lumber industry in the United States and California.....during its period of significance from 1896-1959”
 - “The potential district also possesses *architectural significance* and was evaluated under NRHP criterion C. The building types in Scotia are mostly *traditional structures*....and the components of *Scotia's cultural historical landscape vernacular* were found to collectively contribute to its significance.”
 - “The potential District also embodies distinctive architectural types, methods of construction, and technical innovations, which reflect the towns' evolution.”
 - “Three hundred and nine (309) of three hundred forty-one (341) historic age resources in the potential District boundaries were identified as *contributors to the Historic District*, and the district appeared to retain sufficient historic integrity of location, design, setting, materials, workmanship, feeling, and association to define the town physical integrity”(3.6-11 passim. emphasis added)

Scotia Historic Resource District Special Zoning Regulations

As mentioned, at the time of the EIR review for the Scotia town-wide General Plan Amendment, Rezone, Subdivision, etc. (2006 through final approval of all of those component projects in 2009), the County felt so strongly about the need to maintain the historic and physical integrity of the Scotia Historic District that it adopted a special historic resource zoning “D” Design designation and specific historic resource zoning regulations applicable to Scotia only. (Humboldt County Zoning Code Sections 19.1.19 et seq.)

- Briefly, those regulations are intended to restrict development of any kind, including construction, demolition, reconstruction, alteration, etc. that could significantly interfere with or conflict with design, materials, workmanship, or physical and historical integrity of structures determined to be contributing to historic significance. (Id.)
- In effect, the County of Humboldt has limited the use and utility of real property within the Historic District of Scotia in order to preserve its historic integrity with special emphasis on design, setting, feeling, and association to define the town’s physical integrity. The DEIR recognizes these special characteristics.
 - ‘Based on the finding of the 2007 report, the Scotia Historic District is considered to be a *historical resource* for the purposes of CEQA. ‘
 - “The 2007 report also identifies Scotia’s abundance of forested areas in the immediate vicinity as a character-defining feature of its *setting* that is *significant with the regional and state wide importance.*’
 - “Scotia is the last company town-owned town of its kind in California”
 - “The environmental setting of Scotia as a working community adjacent to the Eel River and distant from more urbanized areas, such as Eureka, is also a contributing element to the town’s distinctive identity, and it retains its feeling as a secluded early 20th century company town.(3.6-11 passim. emphasis added)

All of these of important components of historical significance will be starkly contrasted, undermined, and substantially diminished by construction and operation of the Project. Historic integrity, design, setting, materials, workmanship, feeling, and association, all elements which contribute to Scotia’s historic significance, stand to be cheapened and canceled, utterly overwhelmed by the placement of up to 60, 600 foot tall, modern space-age, wind factory machines, traipsing like mechanical giants across the scenic ridges which are the most prominent feature of the surroundings viewed, cherished, and identified by all Scotia residents, workers and visitors.

The utter inconsistency between an early 20th century setting, materials and workmanship and the stupefying scope and scale of the big wind factory Project, its construction and operation, simply can not be reconciled.

- The construction and operation may occur on the adjacent hillsides immediately above Scotia, but the *adverse impact*, confusion, inconsistency, and the diminishment of historical resources will be *felt* in Scotia.
- It is where the adverse impact is *felt* that the mitigation must be focused. To eliminate that adverse impact, the Project must be relocated, or alternatives

should also be selected which simply do not result in placement of wind-factory WTG's in visible locations, above Scotia.

- The historic character of the town of Scotia is important to the community, and its significance at the local and state level qualifies it as a cultural resource worth protecting.
 - See Humboldt County General Plan CUP-S1: Significant Cultural Resources defined. “Significant Cultural Resources include, but are not limited to, any object, building, structure, site, district, area, or place that is culturally, historically, or archeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals, of Humboldt County...
 - Humboldt County General Plan Policy CUP-5 lists the findings necessary for the approval of any project that includes the loss or destruction of cultural resources. Substantial adverse changes to significant cultural resources shall *not be allowed* through a ministerial or discretionary action unless;
 - (a) cultural resources is found *not to be significant*; or
 - (b) there is an *overriding benefit* from the project; and compensating mitigation to offset the loss is made part of the project.

Here the 2007 Resources Report and DEIR both find Scotia to be significant. The adverse impacts from this Project undermine any argument that there will be any overriding benefit to anyone other than Terra-Gen.

- There is simply *no overriding benefit* from the Project that could explain or justify the County reversing its determination that the Scotia Historic District is of *significance* or that its adoption of Special Zoning Regulations applicable to Scotia alone was necessary to protect the special distinctions that qualify Scotia to be a Historic District such as setting, materials, workmanship, feeling, and association, etc.
- Under these circumstances, the County would be breaking good faith and fair dealing with Scotia were it to foist upon the community the industrial blight of 600 ft WTG's while restricting uses and development in Scotia which detract from Historic Resource significance by homeowners and residents.

The Monument at Monument Ridge

Another cultural resource that will inevitably be impacted, obstructed, and obviated by construction of the wind factory on Monument Ridge is the “monument” from which the ridge and peak get their name.

- Since the 1850's there has long been a monument, and to this day there is located near the high point or “monument peak” overlooking Scotia, a plaque which recognizes and celebrates the of the Initial Point for all Land Surveys in Humboldt and Mendocino and Trinity Counties. There are only 3 such points in California, only one for the state of Oregon and Washington together.

- These initial points were designated in the 1850's and 60's particularly because they are high, unobstructed, and features and distances can be discerned from atop the designated ridges for many miles distant; and they can be seen from many locations to take bearings to commence a land survey.
- For example, Mount Diablo is the initial point for most of Northern California outside of the Monument peak area. It was selected because it was high enough to enable the territory to be seen in all directions and high and clear enough to see from the territory in all directions to take and get bearings.
- The planned turbines threaten to obstruct those open views and the very function of the initial point, and at a minimum, should be clustered away from the initial point so that it may serve its function without confusion, detraction, or mistake as to its unique location. There is no mention of the initial point in the DEIR, and there appears to be no care or consideration given to this component of our community's historic cultural heritage.

IV. Deferred Assessment and Mitigation.

Concerns Applicable to all Comments: General Principles from California Case Law.

- Deferring Environmental Assessment of a significant impact conflicts with CEQA.
- Deferring the Adoption of Mitigation until a future study identifies the mitigation is also prohibited by CEQA.
- The study must be done as part of the EIR, not later or after Project approval.
- The discovery or determination of any significant new information regarding unavoidable or unmitigated adverse impacts or available mitigation *after the DEIR issues* requires recirculation for new public review.
- Conducting only truncated evaluation of impacts and effects at the time of the DEIR, and later, conducting studies, identifying adverse effects and devising mitigation *without recirculation*, improperly "piecemeals" the project review, falsely minimizing and improperly manipulating the significance of impacts.

Examples of Improperly Deferred Assessment and Mitigation and Planning in the DEIR

(a couple dozen examples should suffice)

Chapter 3.2 Aesthetics – The DEIR has determined that there will be significant and unavoidable adverse environmental impacts to Aesthetics as a consequence of Project development. The Project will substantially degrade the existing visual character and quality of public views. (Impact 3.2-1)

However, the design and determination of mitigations to be implemented to reduce impact significance is deferred to a future time, to be based on ongoing studies, reviewed and approved by other agencies or evaluated post approval without public process and without specification in the DEIR of particular mitigation criteria.

The development of such significant new information and the fashioning of appropriate mitigation will require DEIR recirculation for appropriate public review.

- The DEIR found, for example, that ground disturbance to widen shoulders, and cut and filled slopes, WTG pads, staging/equipment layout areas in the Wind Turbine Generator (WTG) areas, and batch plant pads would result in adverse impacts on scenic vistas along Bear River and Monument Ridges and on the visual character of the ridges as viewed from surrounding locations.
- These impacts would also increase the potential for erosion, which could further degrade visual resources along the ridge.
- As mitigation, the DEIR says that several plans would be prepared *in the future* to reduce impacts, including a **Storm Water Pollution Prevention Plan, a Grading and Erosion Control Plan, and a Reclamation Revegetation, and Weed Control Plan.** (Page 3.2-62).
- None of these Plans are prepared and presented with the DEIR for public review and comment.
- No reason is given as to why the information cannot be provided for public review. All are left to be determined at a later date, without public process and without specific mitigation or performance criteria provided. This is significant new information which requires recirculation.
- **FAA Part 77 Notification Procedure:** With an Industrial Project of this size, FAA must be consulted. The DEIR warns that once consulted, the FAA *may or may not* recommend installing tower markings and aviation safety lights on all or a portion of the WTG towers.
- Depending on the contents of the Plan and the outcome of the notification procedure, the DEIR says there could be substantial contrast in nighttime views and the intensity of safety lighting. The DEIR admits the number of lights installed could create a source of *light pollution* that would cause viewers to direct their attention from their immediate surroundings to the Project site, a significant adverse effect.
- This “distraction” impact could be unsafe and would be significant. As of the date of issuance of the DEIR, the notification procedure has not been commenced; consultation with FAA has not yet taken place, so it cannot be determined whether a significant and unavoidable impact will result or can be mitigated, or how. Intensity, density, safety of the impact etc. cannot be evaluated by the public at this time. Once the particulars are determined, and only then, can the public be informed about, and comment on the significance of the impact and the adequacy of the mitigations.
- The DEIR should be supplemented with this important new information and recirculated for public comment.

Solid Waste – Construction activities would generate various types of solid waste. Project construction is estimated to generate 3 tons of solid waste. The DEIR cites as mitigation the preparation of a **Construction Waste Management Plan** which identifies materials to be diverted from disposal by effective usage, recycling, or salvaging, etc.

- This **Construction Waste Management Plan** has not yet been prepared, and no draft has been provided for public review or comment.
- No particular mitigation or performance criteria are presented for public review.
- No explanation is given as to why the information cannot be provided for public review.
- The plan should be prepared for review and the DEIR recirculated for additional comment on this key plan.

3.3 Agriculture and Forestry Resources – The majority of the Project site is managed for timber harvest. Per the DEIR, the Project would involve the harvest of up to 900 acres of merchantable timber, most in the form of 100 ft wide linear clear cuts for overhead transmission line and Rights of Way, presumably to be maintained with herbicides, as well as road widening, pad clearing, etc. The Project would also permanently “convert” up to 91 acres of forest land to non-forest use, forever.

- These activities require the preparation of a **Timber Harvest Plan** and a **Conversion Permit**.
- These are clearly part of the Project, and these processes are reasonably foreseeable and will require impact analysis.
- Yet the relevant Timber Harvest Plan and Conversion Permit are not made available to the public or provided for review and comment with the DEIR. The failure to provide this plan defers assessment and mitigation and requires recirculation of the DEIR.
- Withholding the plan also "piecemeals" the Project review, minimizing impact of the whole Project, without explanation as to why a complete review cannot be undertaken.

3.6 Historical Resources – Cultural Resources, including Tribal Cultural Resources.

The DEIR finds that there would be significant and unavoidable adverse environmental impacts to cultural resources. As a consequence a **Historical American Land Survey Report** must be prepared to identify the impacts and appropriate mitigation.

- Before any project-related ground disturbance, the historic landscape that will be negatively affected by the Project must be described and documented.
- This report has not yet been prepared, the extent of adverse impact has not been determined. The mitigation measure that will be required will be submitted to Humboldt County Planning before **Grading or Improvement Plans** for any ground disturbing activities. But there is no provision for circulation of the plans to the public for any public review process.
- The DEIR also fails to consider or describe the impact of Industrial Scale Development subsuming the Humboldt Meridian Initial Point and associated Monument on Monument Ridge and/or the Cultural and Historic significance of the initial point for all local surveys – modern and historic -- and the impact upon Bearer Marker visibility from various points of reference and distances.
- The analysis of impacts and mitigation, if any, should be made available now, with the DEIR. As a consequence, the DEIR should be revised and recirculated.

3.6-3b Historic Resource Mitigation Measures - Prepare and implement a **Site Protection Plan**.

Again before any permits are issued for construction or grading activity, the DEIR recommends a detailed **Site Plan** to protect historic-age built-environment resources. No specific performance or mitigation criteria are presented.

- There doesn't seem to be any additional circulation or public review anticipated or required once the plan is prepared.
- Like so many other *deferred studies* which, by their very nature, will generate important new information, the plan needs to be prepared for the public to comment upon with the DEIR. The plan should be prepared, and its criteria presented, and the DEIR should be recirculated.

3.6-3c Mitigation Measure – Ethnobotanical Plants incorporated in **Reclamation Revegetation, and Weed Control Plan**.

- This is a yet-to-be determined mitigation plan. Which plants are included to address cultural concerns is once again deferred and left to be determined at a later time, employing as yet unidentified criteria.
- There appears to be no public process involved in that future review, and no circulation of the Plan to the public is provided. The plan should be incorporated within a redrafted DEIR and recirculated for public comment.

3.7 Geology and Soils

Impact 3.7-2 - The DEIR admits that there are possible risks to people and structures caused by strong seismic ground shaking. The Project site is in an area of high seismic activity and many recent damaging earthquakes. The region contains known active faults and structures, and employees could be subject to hazards from strong seismic ground shaking.

- The primary mitigation offered for such risks is simply “project compliance with the California Building Code”.
- Other **Geotechnical Reports** and **Investigations** are also required. However, these are deferred, will not be prepared until later, after Project review. Therefore, the public won't get an opportunity to review and comment upon them.
- Given the erosive, unstable nature of the local geology and the sediment impaired condition of the local water sheds, the public requires the basic information so as to meaningfully evaluate the Project's broad potential adverse impacts and possible mitigations on such topics of concern as:
 - Site Preparation
 - Appropriate Sources and Types of Fill
 - Road, Pavement, and Parking Areas
 - Appropriate Foundation Design
 - Soil Corrosion of Concrete and Steel
 - Seismic Ground Shaking
 - Expansive Soils
 - Unstable Soils

- These are essentially all of the important ground stability, geology and soils considerations which should be addressed in an EIR. But in this hurried DEIR, they're all left for future determination, and the public will be provided no opportunity for review and comment.
- At this point, absent any of this information in the DEIR, the analysis blithely concludes that the impact will be less than significant “given project compliance with existing state and local regulatory requirements...”.
- In an area of high seismic activity and significant public concern, this is nothing short of putting key and critical analysis into a black box to which the public has no input or insight.
- The Geotechnical Report should be disclosed and the DEIR recirculated.

3.7-4 Erosion during Construction and Operation – This mitigation requires a **Grading and Erosion Control Plan** be prepared for the Project. The plan is to be subject to review by Humboldt County Planning before any Grading Permits are issued. Again, no public review or comment opportunity is anticipated or provided.

- Given the massive amount of earthwork, road, contouring, excavation, fill disposal and compaction proposed, this critical information should be presented with the DEIR to meaningfully evaluate impacts and to assess effectiveness of generalized pre-plan mitigations so vaguely described. The environmental analysis is improperly deferred, piecemealed, and this requires recirculation.
- Significant timber harvesting throughout the winter months is planned as part of the Project. (3.7-24). The **Timber Harvest Plan (THP)** and the **Wet Weather Operations Plan (WWOP)** should be submitted with the DEIR for review, so that the public can see what silvicultural methods will be employed, where and how much harvest and road work will be undertaken, whether and what age and size class distributions will remain following harvest, whether it's appropriately mitigated and where and how regeneration will be implemented, etc.
- Again, the public is simply “assured” that everything will be undertaken in compliance with state and local regulations. So, the Draft asserts, any impact will be less than significant.
- *This is not analysis:* Because the plans are not presented; if they exist, no substantial evidence supports the conclusion. The DEIR, the THP and WWOP should be presented, and the DEIR should be recirculated.

Unless the public has an opportunity to see and evaluate the mitigations as well as the potential for adverse impacts, public comment in this entire review process is meaningless. It merely “assures” us that everyone will go forth and comply with all authority, but this simplistic conclusion subverts the purposes of CEQA to provide the public with the information it needs to be informed and decide if the public interest is being protected, and if not, so it can “throw the bums out”.

3.8 Greenhouse Gas Emissions – The DEIR notes that significant greenhouse gas emissions “GHG” would be created by construction related activity, particularly during with estimated 18 month intensive construction period it finds those significant impact from the NOx generation to be *unavoidable*.

- However the consideration of potential for impact is deliberately minimized and manipulated in the DEIR by amortizing those emissions and fuel use over the theoretical 30 year life of the Project.
- This “*amortization*” of the GHG is nothing short of sleight of hand to minimize the project's significant and substantial emissions from heavy materials transport, off-road equipment, worker commute, and on-site heavy duty construction equipment, etc. Which the DEIR says will consume one million gallons for fuel in short order.
- An accurate, defensible analysis should be prepared and the DEIR recirculated.

3.9 Hazardous Materials – The DEIR identifies hazardous materials that would be maintained and used on the Project site and the potential for measures to reduce hazards and adverse impacts to health and safety, the environment, etc. To reduce the potential accidental release of hazardous materials, a **Hazardous Materials Business Plan** would be prepared.

- That plan has not yet been prepared and has not been submitted.
- That plan would require significant new information, identify matters of importance to the public, including hazardous waste material storage areas, proper handling and disposal techniques, and of course identification of how much of what hazardous materials will be where, at the Project site, much of which is subject to open public access.
- The plan should be prepared, presented and the DEIR recirculated.

3.9-1 Mitigation Measure – Investigate known Hazard along the Project WTG alignment:

Because Agency data base searches have disclosed the report of an underground storage tank at Mt. Pierce (“Monument Peak”), mitigation is to include **Soil Sampling and Testing** at the area identified.

- Those samples and lab tests have not yet been undertaken; no summary of findings is available to the public, and no one knows whether significant adverse impacts are posed or if further remediation will be required. Nor will we know until after those plans and studies are complete. There’s no provision for public participation or input in that future plan review.
- Breaking this part of the impact analysis off for separate review improperly piecemeals that evaluation.
- This is important new information requiring recirculation.

Impact 3.9-3- Potential Safety Hazards - A major concern associated with Project arises because construction may include the use of **explosives**. The DEIR notes reasonably foreseeable accidents associated with blasting, including accidental discharge, fly rock, etc. Blasting is an *inherently dangerous* activity, and the DEIR admits that potential hazards could occur and are foreseeable.

- **Mitigation measure 3.9-2** – The DEIR requires the preparation and implementation of a **Blasting Plan** to minimize potential for blast related safety incidents.

- Once again, this key mitigation in the form of a “plan” is not timely submitted to the public. The review, if any, will be in a “black box” not subject to public review or input.
- That plan requires a description of procedures to be implemented for proper storage and transportation of materials.
- None of these criteria or mitigations are identified or described for public review in the DEIR, yet they’re said to somehow reduce the potential for impact to less than significant, notwithstanding the inherently dangerous nature of blasting.
- The information should be disclosed and the DEIR recirculated.

Impact 3.9-4 Operational Hazards - The DEIR recognizes that there are reasonably foreseeable upset and accident conditions during operation of turbine generators, including blade throw, ice throw or shedding, tower collapse, etc. However, all those potential and foreseeable hazards are said to be addressed simply by “maintenance” and the submission of an **Operations and Maintenance Plan** with “monitoring operations conducted from computers”.

- There are no specific performance criteria provided.
- The plan is not available to the public in the DEIR, and we are not given the opportunity to review, comment, provide input, or objection.
- This is yet another deferred mitigation, depriving the public of its right to an adequate, complete informational document. The plan should be provided for review and the DEIR must be circulated for consideration of this important new information.

3.10 Hydrology and Water Quality

Impact 3.10-1: Construction Drainage and Water Quality Effects. The DEIR identifies many potentially significant water quality effects caused by grading and earth movement, soil erosion, replacing existing drainage culverts, directional drilling, and many other Project operations. To address these adverse impacts a **Storm Water Pollution Prevention Plan (SWPPP)** is required.

- The public is entitled to know what measures will be required by this plan so it can evaluate the risk and remedies.
- Because the needed mitigation measures are not identified and no specific performance standards are discussed, the plan should be presented and the DEIR recirculated.

3.12 Transportation and Traffic

Mitigation Measure 3.12-1 – Rehabilitation/Reconstruct County Maintained Roads Damaged by Truck Traffic.

- This mitigation measure requires the Project proponent prepare a **Transportation Route Plan** that avoids heavy truck trips on Monument Road and Mattole Road. This plan must be provided before any issuance of Grading Permits.
- We understand that the Monument Road is *already* being used by trucks from Terra Gen and Stan Tech for Project planning and preparation, so this is obviously

a mitigation that should be completed at the earliest possible time and in full view to the public for evaluation.

- As part of this mitigation, the applicant is required to rehabilitate/reconstruct roads to the satisfaction of the County Department of Public Works. However, the standards that guide that discretion are not specified, and therefore, any determination regarding rehabilitated roads, who will pay for rehabilitation, how much and when, will avoid public review and input.
- The performance criteria and the plan should be made available to the public and the DEIR should be recirculated.

Vehicle Size, Propellers, Towers, Nacelles, Etc.:

- “Transporter” vehicles up to 90 ft long that will carry the wind turbine generators and propeller blades 200 ft long to the Project site. These vehicles are wider than the standard 12 ft travel lane on all State and US Highways. Many of the other massive components are hundreds of feet long.
- Nonetheless, the DEIR asserts that there will be no significant impact and no impediment to vehicular traffic or emergency response during transportation because of reliance upon a yet-to-be-obtained **Transportation Permit** from the County and the city of Fortuna.

Mitigation Measures 3.2-2 Create a Traffic Control Plan

- Since US Highway 101 is under Cal Trans jurisdiction, it would seem that plan must *also* satisfy Cal Trans requirements, including a **Traffic Control Plan**.
- In any event, the performance criteria for compliance are not specified. The Cal Trans **Plan and Permit** is yet another mitigation strategy that will be required before transportation is undertaken.
- The DEIR assumes that incorporation of the traffic control measures outlined by the Transportation Plan will ensure that vehicle access is maintained, and the Project will not impede emergency vehicle access.
- Because it will contain such essential mitigation that without the plan, the Project would otherwise result in significant adverse environmental impact, that **Traffic Control Plan** should be subject to public inspection, review, input, comment, etc.
- The plan and permit should be presented now, and the DEIR should be recirculated.

3.13 Fire Protection Services and Wildfire Hazards

The DEIR establishes that the Project will increase demand for Fire Protection Services and could result in additional needs for fire fighting equipment and technical rescue services that would exceed the training and existing equipment capabilities of likely responders. The DEIR says this adverse impact would be potentially significant. (Impact 3.13-1)

- The Rio Dell Fire Protection District has indicated that the district would indeed require additional equipment, including an aerial truck, water tender, and commercial fire fighting equipment, and specialized training in order to provide adequate rescue and fire protection services for calls for service at the Project site.

(DEIR Pg.3.13-15) But who will pay what, when and how for this needed equipment?

Mitigation Measure 3.13-1a – Prepare and implement a **Fire Services Financing Plan**.

Before energizing the Project....Applicant shall develop and implement a **Fire Services Financing Plan** in consultation with Humboldt County Fire Chiefs Association and Rio Dell Fire Protection District. The plan to include:

- Equipment needed
- Costs to acquire equipment
- Project Applicant's Fair Share Contribution towards acquisition
- Financing Mechanism to allow for receipt and distribution of funds to implement the Plan.

The Plan has not been negotiated or presented: the generally identified factors are not specified. How, if, when, or whether such a plan is feasible, sufficient, or affordable is not clear. This will be significant new information. The plan should be presented and the DEIR recirculated.

Mitigation Measures 3.13-1b – Prepare and implement a **Fall Protection & Rescue Plan**.

The DEIR says before any construction permits are issued or any construction begins, project Applicant shall prepare a **Fall Protection & Rescue Plan**. The plan shall be implemented throughout the life of the Project.

- No reason is given for deferring the important safety mitigation plan. It should be prepared and presented and the DEIR recirculated.

Impact: Increase Risk of Wildland Fires

The Project is located on land considered State Responsibility Area (SRA) as well as within a local fire district's response area, with a *high fire hazard severity rating*. The DEIR admits that the Project construction would include activities that may create sparks or flames representing potential hazards. This impact would be potentially significant. To address the risk, the DEIR proposed preparation of a **Detailed Vegetation Management Plan** and a **Fire Safety Management Plan** to minimize potential for wildland fires. These plans are not presented. The measures are deferred to some future time.

Before any construction permits are issued and construction activity begins, The DEIR says the Project Applicant shall develop a **Fire Protection Plan** subject to review by Humboldt County Planning.

- These plans will supposedly mitigate risk of significant adverse impact, but it's not clear when or how. There are no specific performance criteria required, and the public will be given no opportunity to review this important new information. The plans should be presented and the DEIR recirculated.

Mitigation Measure 3.5-1a – Minimize Construction Footprint on Marble Murrelet Habitats

The DEIR admits that the plan could have significant adverse impacts to Murrelets. Many will inevitably be killed.

- By way of General Mitigation, the DEIR asserts that the Project will not remove any old growth or mature coniferous forests that could support nesting, and to the extent feasible will *maximize buffers* between construction activities and suitable Murrelet habitat.
- In fact, the documentation depicting Murrelet nesting habitat is not yet overlaid with construction footprints to confirm that there will be no direct impact, and it won't be provided until preparation *at a later time* -- some time before any ground disturbing activity, in the form of a **Buffer Plan**.
- What constitutes infeasibility for the Project here is not particularly described, but *if* the Project proponent doesn't believe that the buffer called for will be feasible, it might still provide documentation to support some *alternative* buffer size and shape before issuance of Construction Permits.
- Neither the consultation document or type and form of review by the Wildlife Agencies is more particularly described. The public is left with no clear description or indication of what alternative buffers might be considered or available within the limitation of the Endangered Species Act, etc.
- Under the ESA and CESA (Murrelets are both state and federally listed), any Take of listed species requires an **Incidental Take Permit**, an **Implementation Agreement** and **Consultation Documentation** with other responsible Agencies.
- We simply can't comment on this entire mitigation process, because the appropriate information is not provided. It should be provided to the public and the DEIR must be recirculated for review.
- Another mitigation touted by the DEIR is the intent of the Project proponent [before the start of construction activity] to develop a **Worker Environmental Awareness Program**. Like most of the other "mitigation" plans, this would be submitted to the Humboldt County Planning Department, but not made available to the public for review and comment.
- This vast Worker Environmental Awareness Program would provide multidisciplinary training in a dozen complex statutory and regulatory regimes as well as specialized skills such as Species Identification, Fire Protection Measures, and "instructions regarding the scenarios in which permit conditions require notifications...", etc. Whatever this last element may mean, it is not now part of an extant plan or a devised mitigation, and there is no explanation as to why it's not provided for DEIR review.
- These are not clear performance standards. The Awareness Program itself is not included in the DEIR. Nor will it ever be seen by the public be under the conditions laid out in the DEIR.
- This "Awareness Program" should be developed now, not after Project approval, and it should be made available to the public for review and comment with the DEIR. When available, the DEIR should be recirculated.

Mitigation Measure 3.5-2c – Implement Compensatory Mitigation to Offset Operational Impacts on Marble Murrelets

- The DEIR requires the Project applicant to prepare and implement a **Marble Murrelet Mitigation Plan** to offset the anticipated level of Murrelet Take over the life of the Project. Whether realistic or accurate, no one can tell, because it is not presented.
- The DEIR estimates that some 20 Murrelets will be killed as a consequence of operation over the course of the Project. “Take” in terms of disturbances or nesting behavior interruption may be far greater. Precatory language like “a Murrelet shall be *created* for each one taken” is unexplained in the DEIR.
- Much reliance is placed on corvid control, but it’s not quite clear how many jays or crows will have to be killed to “*create* a Marble Murrelet” in compensation for those lost.
- Some reliance is also given to possible *thinning* of forest stands by Public Agencies, to accelerate development of remaining trees to mimic old tree characteristics, possible to create suitable nesting habitat.
- The problems with this proposal is that it is entirely *speculative*, might never occur, remains under the discretion of third party agencies, and would take dozens of years, perhaps a century, to have any effect.
- Given the dire condition of Murrelet populations now, cutting *more* timber in marginal habitat is not universally accepted as mitigation, or even worth the risk of experiment.
- In any event, that plan is not presented in the DEIR. While the DEIR says, "... Applicant shall prepare and implement a Marble Murrelet Mitigation Plan...", The public is told only that the plan will *eventually* describe the proposed measures to minimize and fully mitigate all impacts of the Project on Murrelets, and
- the Plan will describe the monitoring and reporting process to document compliance and effectiveness of minimization and mitigation measures, as well as address who is going to pay for it and how.
- However, those are not specific performance standards; the information to be announced in the plan itself is not available to the public, and it can not be reviewed as part on the Environmental Review Process.
- That plan should be developed now, the measures proposed to minimize and mitigate impacts should be provided in the DEIR for review and recirculation; the monitoring the review process should be spelled out at this time for public review and comment, not later, after the Project is approved.

V. Conclusion.

For all of the reasons described in the foregoing comments, Town of Scotia opposes the Project and recommends the “No Project” alternative be selected if ultimately, any recirculated DEIR is ever certified.

First, however, this DEIR is technically and legally flawed. As many as a couple dozen plans, programs, studies and detailed reports, upon which the DEIR relies for impact analysis and/or mitigation have been *deferred*, delayed to a later time and removed from public scrutiny in connection with the CEQA process. Those deferred matters must be

completed, presented for public review and recirculated for DEIR comment and response before any further processing or hearing is scheduled.

The baldfaced efforts to “fast track” this Project have resulted in an inadequate DEIR. The *bum’s rush* has raised substantive concerns over Terra Gen’s good faith and fairness and the suitability of this Project for Humboldt County. Critical information about the Project is being withheld from the public. Obvious efforts abound to minimize and euphemize significant, plainly foreseeable adverse, unmitigated effects.

Even the deeply flawed DEIR *admits* that the Project will have significant unavoidable adverse impacts upon scenic vistas, and aesthetics; that the Project construction will result in significant pollutant emissions, that it will kill threatened, endangered and fully protected species; and that it will irretrievably disturb tribal/cultural resources.

Under these circumstances, in order to approve this Project, the County must throw the interests of the communities of Scotia, Rio Dell and the Wiyot Tribe “under the bus”, reject required norms of CEQA analysis, ignore environmental degradation and “sell out” to the industrialization of our precious scenic and aesthetic resources. And for what? What possible overriding considerations can be found that militate in favor of accepting these affronts?

This is a Project that is not well planned or well sited. Alternatives like off-shore WTG and alternative on-shore locations which would eliminate so many significant impacts are not even acknowledged. All of this Project’s purposes can be achieved elsewhere. Yes, we are all concerned about Greenhouse gas pollution and favor clean, green energy production. The Project here is *neither*. Humboldt need not sell out to the first industrialized alternative energy project to come along.

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