

DOCKETED	
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Description:	Darden Clean Energy Project draft order for Opt-In Certification - June 11, 2025 CEC business meeting.
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STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

Darden Clean Energy Project

[OBJ]

Docket No.: 23-OPT-02

**ORDER CERTIFYING THE FINAL
ENVIRONMENTAL IMPACT REPORT,
RECORD OF PROCEEDINGS, AND
GRANTING THE OPT-IN
APPLICATION FOR CERTIFICATION**

DRAFT ORDER:

I. BACKGROUND

IP Darden I, LLC and Affiliates (collectively, Darden) is seeking a certification for the Darden Clean Energy Project (23-OPT-02) under the California Energy Commission's (CEC) Opt-In Certification Program. The Darden Clean Energy Project would include a 1,150 MW solar photovoltaic (PV) facility, a 4,600 MW-hour battery energy storage system (BESS), step-up substation, generation-intertie line, and switchyard on approximately 9,500 acres of retired agricultural land in unincorporated Fresno County, California, near the community of Cantua Creek.

Under the Opt-In Certification Program, the CEC may grant a certification to an eligible facility if the commission finds that the project meets all applicable requirements under Chapter 6.2 of Division 15 of the Public Resources Code (Chapter 6.2). Moreover, Public Resources Code section 25545.7 designates the CEC as the "lead agency" under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) for Opt-In applications.

II. EXECUTIVE DIRECTOR'S RECOMMENDATION

Public Resources Code section 25545.6 requires the Executive Director to prepare a recommendation for the CEC's consideration on whether to certify an environmental impact report (EIR) and issue a certificate for the site and related facilities pursuant to Chapter 6.2. Based on the Opt-In Application, CEC staff's Updated Staff Assessment (including a Final EIR), and other information filed in the docket, the Executive Director recommends that the CEC certify the EIR and issue a certificate for the Darden Clean Energy Project.

III. ENERGY COMMISSION FINDINGS

Based on the exercise of our independent judgment and review, and considering the record as a whole, we hereby adopt the following findings pursuant to Public Resources Code sections 21000 et seq. and 25545.8, and applicable implementing regulations, in addition to the findings contained in the Updated Staff Assessment (including the Final EIR):

1. The Darden Clean Energy Project is an eligible facility under Chapter 6.2.
2. The Commission has not recommended minimum standards of efficiency for the project pursuant to Public Resources Code section 25402(d) because no minimum efficiency standards apply to this project. The applicant is therefore not required to demonstrate compliance with minimum standards of efficiency pursuant to Public Resources Code section 25402(d).
3. Imposition and implementation of the proposed conditions of certification contained in the Updated Staff Assessment (including a Final EIR) will ensure that the Darden Clean Energy Project will be designed, constructed, sited, operated, and decommissioned in conformity with applicable public safety standards, applicable air and water quality standards, and with other applicable local, regional, state, and federal standards, ordinances, or laws.
4. The site would be restored as necessary to protect the environment if the commission denies approval of the application.
5. The Updated Staff Assessment contains a discussion of the public benefits from the project, including but not limited to, economic benefits, environmental benefits, and electricity reliability benefits, as required by Public Resources Code section 25523(h).
6. The Updated Staff Assessment identifies the public agencies that received notice of the Opt-In Application.
7. The project site is not located in a prohibited area as identified in Public Resources Code sections 25526 and 25527.
8. The applicant has committed to implementing the labor requirements of Public Resources Code sections 25545.3.3 and 25545.3.5.
9. The Updated Staff Assessment confirms that the project will have an overall net positive economic benefit to the local government that would have had permitting authority over the site and related facility.
10. The Updated Staff Assessment confirms that the applicant has entered into a legally binding and enforceable agreement with at least one community-based organization, Centro La Familia Advocacy Services, where there is mutual benefit to the parties to the agreement, satisfying Public Resources Code section 25545.10 (see TN 259219).
11. On June 6, 2025, the applicant filed the Darden Project Local Investment Program (TN 264097), which provides that the applicant has entered into additional community benefits agreements and may enter more in the future. As

of this date, the applicant has docketed seven agreements in addition to the agreement with Centro La Familia Advocacy Services: Central California Food Bank (TN 260024), Westside Elementary School (TN 260023), Central California Asthma Collaborative (TN 260011), Fresno Housing Education Corps (TN 260008), Golden Plains Unified School District (TN 263949), Tree Fresno (TN260025), and the Fresno Rural Transit Agency (TN 260009).

12. The Final EIR (included within the Updated Staff Assessment), which includes responses to comments and revisions, has been completed in compliance with the California Environmental Quality Act (CEQA). The CEC reviewed and considered the information contained in the Final EIR prior to approving the Darden Clean Energy Project.
13. Imposition and implementation of the conditions of certification contained in the Updated Staff Assessment will ensure protection of environmental quality and assure reasonably safe and reliable operation of the Darden Clean Energy Project. The conditions of certification also assure that changes or alterations have been incorporated into the project that avoid or substantially lessen the project's significant environmental impacts such that the project will neither result in, nor contribute substantially to, any significant direct, indirect, or cumulative environmental impacts. For components of the project outside the CEC's jurisdiction, the Updated Staff Assessment recommends mitigation measures that can and should be adopted by another public agency.
14. The Updated Staff Assessment includes Condition of Certification WORKER SAFETY-12, which provides a funding mechanism to the Fresno County Fire Protection District (FCFPD) to ensure the project's impacts to fire protection services are less than significant. Since the Updated Staff Assessment was published, both the applicant and the FCFPD have raised concerns regarding this condition. Based upon the concerns raised, staff has proposed further amendments to WORKER SAFETY-12 to provide clarification for the parties and to provide direction that this condition shall not delay the project.
15. The proceedings leading to this Order have been conducted in conformity with the regulations governing the consideration of an Opt-In Application and thereby meet the requirements of Public Resources Code section 25500 et seq. This includes circulating the Draft EIR (included within the Staff Assessment) for a 60-day public review period in compliance with Public Resources Code section 25545.7.6, subdivision (b).
16. The conditions in Chapter 6.5 (commencing with Section 21178) of Division 13, including Sections 21188 and 21183.6, have been met for the Darden Clean Energy Project, and CEC staff have prepared the record of the proceedings concurrently with its review of the Opt-In Application.

IV. CONCLUSION AND ORDER

Therefore, we order the following:

1. We hereby CERTIFY that the Final EIR (within the Updated Staff Assessment) complies with the CEQA, reflects the CEC's independent judgment and analysis,

and was considered and reviewed by the CEC before a decision on the certification of the Darden Clean Energy Project.

2. We hereby CERTIFY that the CEQA record of proceedings is complete.
3. The Updated Staff Assessment (including the Final EIR) is hereby modified in accordance with Errata Sheet #1 found at Attachment A.
4. The Opt-In Application for Certification for the Darden Clean Energy Project, as described in the Updated Staff Assessment (including the Final EIR), and a certificate to construct and operate the project are hereby GRANTED.
5. The Commission hereby adopts the conditions of certification, and compliance verifications set forth in the Updated Staff Assessment as its mitigation monitoring program required by Public Resources Code section 25532 and as the mitigation monitoring or reporting program required by Public Resources Code section 21806.1.
6. Based on the findings about community benefits agreements made in section III.10 and 11 above, the Commission hereby adopts the following additional conditions of certification and compliance verifications.

CBA-1 The project owner shall, to the extent feasible, fulfill its donation obligations as set forth in the following community benefits agreements: Centro La Familia Advocacy Services (TN 259219), Central California Food Bank (TN 260024), Westside Elementary School (TN 260023), Central California Asthma Collaborative (TN 260011), Fresno Housing Education Corps (TN 260008), Golden Plains Unified School District (TN 263949), Tree Fresno (TN 260025), and the Fresno Rural Transit Agency (TN 260009).

Verification: In the Annual Compliance Report, the project owner shall provide documentation evidencing compliance with the terms of the eight community benefits agreements listed above.

CBA-2 The project owner shall provide progress reports regarding its implementation of the Darden Project Local Investment Program filed on June 6, 2025 (TN 264097), which shall include: status of its implementation of the Program, any relevant documentation regarding its implementation, any changes or further updates to the Program including any additional community benefit agreements, and the status of any other community outreach efforts.

Verification: On or before January 1 and July 1 of each of the first 3 years after certification, the project owner shall file a progress report to the docket as outlined above. After the first 3 years, the project owner shall include this progress report in the Annual Compliance Report.

7. Based on the findings about WORKER SAFETY-12 made in section III.14 above, the Commission hereby adopts the following revisions to conditions of certification WORKER SAFETY-12 and its compliance verifications.

WORKER SAFETY-12 The project owner shall:

- a. reach an agreement **one or more agreements** with the FCFPD, either directly between the parties or using a mediator, regarding one-time initial funding and ongoing annual funding to provide mitigation for **FCFPD's emergency response services related to** direct and cumulative project-related impacts; **or**
- b. if no agreement can be reached under (a), then the project owner and FCFPD shall enter into **final and binding** arbitration. **The arbitration shall be held in accordance with California law and the terms of WORKER SAFETY-12, and any challenge related to arbitration or the enforceability of arbitration, will not suspend, delay, or excuse payment obligations by the project owner.** The project owner shall pay the cost of arbitration. The arbitrator shall be selected by mutual agreement of the parties and submitted to the CPM for review and approval. If the parties are unable to mutually agree to an arbitrator, the CPM shall select one. The arbitrator shall **also** consider the following in reaching a decision:
 1. Weigh the needs of FCFPD's emergency response to the project related to fire, rescue, EMS, and hazardous materials spills and the related costs on the fire department resources **caused by direct impacts of the project**;
 2. Weigh the cumulative impact of the project on the fire department resources including but not limited to the drawdown of FCFPD resources on existing communities and the impacts on those communities;
 3. Determine the amount of one-time initial funding for any capital improvements and the amount of annual funding with an increase for inflation.
- c. **develop a schedule, in coordination with the FCFPD, that provides a timeline for reaching agreement or completing arbitration prior to the anticipated date of site mobilization, subject to sub-paragraph (e) below. The schedule must include a timeframe for: (i) negotiating one or more agreements on funding directly between the parties or using a mediator, or (ii) commencing and finalizing arbitration. In all dealings regarding this condition, the CEC expects the project owner and the FCFPD to work in good faith and provide timely, substantive responses to all communications from the other party, mediator, or arbiter. In no event may the agreement or arbitration delay the project's site mobilization, construction, or operation.**
- d. If **and when** the current property tax exclusion applicable to the project under California Revenue and Taxation code section 73 sunsets on January 1, 2027, and there is no solar property tax exclusion applicable to

the project, then this COC will sunset. However, if a portion of the project is subject to a solar property tax exclusion, this COC will remain.

- e. **The agreement(s) or arbiter's decisions may separately address funding to FCFPD related to services for direct and cumulative impacts caused during construction and caused during operation, but any agreement or arbiter's decision regarding funding during construction shall be completed no later than 45 days prior to site mobilization, any agreement or arbiter's decision regarding funding during operation shall be completed no later than 45 days prior to operation, and there must be continual funding until the solar property tax exclusion sunsets and there is no solar property tax exclusion applicable to the project.**

Verification:

- a. **No more than 30 days after certification, the project owner shall provide to the CPM for review and approval the schedule for reaching agreement on funding prior to site mobilization.**
 - b. At least 30 days prior to the start of site mobilization, **or as soon as practicable thereafter,** the project owner shall provide to the CPM for review and approval either:
 - 1. A copy of the agreement with the FCFPD or
 - 2. A copy of the arbiter's decision.
 - c. **If the agreement or arbiter's decision submitted 30 days prior to site mobilization is limited to funding during construction, then, provided the property tax exclusion still applies, the project owner must provide to the CPM for review and approval an agreement or arbiter's decision to cover the remaining period of the project at least 30 days prior to the completion of construction.**
 - d. Upon approval **of the agreement or arbiter's decision** by the CPM, the project owner shall commence payment of the initial funding and annual funding. **If the agreement or arbiter's decision is provided later than 30 days prior to the start of site mobilization, funding will be made retroactive to cover from the start date of site mobilization.**
8. All conditions take effect immediately upon adoption of this Order and apply to all construction and site preparation activities including, but not limited to, ground disturbance, site preparation, and permanent structure construction.
9. The approval of the Opt-In Application for Certification for the Darden Clean Energy Project is subject to the timely performance of the conditions of certification and compliance verifications. The conditions of certification and compliance verifications are integrated within this Order and are not severable therefrom. While the project owner may delegate the performance of a condition

or verification, the duty to ensure adequate performance of a condition or verification may not be delegated.

10. The CEC hereby adopts staff's recommendations and proposed findings and approves conditions of certification as set forth in the Updated Staff Assessment, as modified in accordance with this Section IV and the Errata Sheet #1 in Attachment A.
11. This Order is adopted, issued, effective, and final on June 11, 2025.
12. The CEC staff shall file a Notice of Determination with the State Clearinghouse within five business days of June 11, 2025.

IT IS SO ORDERED.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on June 11, 2025.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Kristine Banaag
Secretariat

ATTACHMENT A - ERRATA SHEET #1

The changes set forth below to the Updated Staff Assessment (TN 263053) are necessary to correct typographical errors or for clarity. Deleted text is shown in ~~strike through~~ and new text is shown as **bold underline**.

Page 1-1 of the Updated Staff Assessment

Section 1.1 Introduction

This Updated Staff Assessment, which includes the Final Environmental **Impact** Report (EIR), has been prepared following the 60-day public comment period on the Staff Assessment (including Draft EIR). Consistent with California Code of Regulations, Title ~~1420~~, Division 6, Chapter 3, Section 15134**2**, this Updated Staff Assessment includes revisions made to the Staff Assessment in response to comments and recommendations received on the Staff Assessment raising significant environmental points. **The Staff Assessment is hereby incorporated by reference into this document.**