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State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 16, 2025

Eric Veerkamp, Project Manager
California Energy Commission
715 P Street
Sacramento, California 95814
Eric.Veerkamp@energy.ca.gov

Subject: Preliminary Staff Assessment (PSA) for the Willow Rock Energy Storage Center Project (Project), Docket No. 21-AFC-02

Dear Eric Veerkamp:

The California Department of Fish and Wildlife (CDFW) has reviewed the PSA from the California Energy Commission (CEC) for the Project. Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

The proposed Project would ordinarily require one or more discretionary approvals by CDFW because it may result in substantial adverse impacts to fish and wildlife subject to CDFW regulatory authority such as lake and streambed alteration (Fish & G. Code, § 1600 et seq.) and incidental take of species protected under CESA (Fish & G. Code, § 2050 et seq.) or the Western Joshua Tree Conservation Act (Fish & G. Code, § 1927 et seq.). CDFW would typically submit comments as a Responsible Agency under CEQA (Pub. Res. Code, § 21069; CEQA Guidelines, § 15381). However, because the Project

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is subject to the CEC's Application for Certification (AFC) process, the CEC has exclusive jurisdiction over the Project and is responsible for ensuring any certification of the Project includes all conditions necessary to ensure compliance with the Fish and Game Code and its implementing regulations in Title 14 of the California Code of Regulations (Pub. Res. Code, §§ 25545.1, subd. (b), & 25545.5, subd. (a)). Thus, CDFW does not have a direct permitting role in the process that would ordinarily trigger a Responsible Agency role. CDFW instead submits these comments as a Trustee Agency under CEQA.

CDFW is also submitting these comments in its consultation role under the Warren-Alquist Act. CDFW is providing comments and recommendations on biological resource matters within its expertise to support the CEC's assessment, environmental review, and development of mitigation measures, and other conditions for the Project and to help ensure compliance with applicable California fish and wildlife laws.

PROJECT DESCRIPTION SUMMARY

Proponent: GEM A-CAES, LLC.

Objective: The Project consists of a 520-megawatt gross, and 4,160 megawatt-hour compressed air energy storage facility. Energy stored at the Project site would be delivered to Southern California Edison's Whirlwind Substation located southwest of Project site via a new approximately 19-mile long 230-kilovolt (kV) generation intertie (gen-tie) line. The Project would be capable of operating on a 24-hour basis, 365 days a year, with an approximately 50-year lifespan.

Location: The Project site is located north of Dawn Road, between State Route 14 and Sierra Highway in southeastern Kern County. The Project gen-tie line would connect the Project site with the Whirlwind Substation, located at the intersection of 170th Street West and Rosamond Boulevard.

CDFW appreciates the extensive coordination that has occurred between CEC staff and CDFW on the Project. Because of this close coordination, most of our input and recommendations have already been addressed in the PSA, and we only have limited comments, which are as follows:

COMMENTS AND RECOMMENDATIONS

Project Description: PSA Section 3.5.1.7, Project Description, Hydrostatically Compensating Surface Reservoir, indicates that construction of the 600-acre-foot surface reservoir will include the installation of a floating cover consisting of interlocking shapes. PSA Section 5.2, Biological Resources, states that the floating reservoir cover could result in species entrapment and may act as a raven subsidy. The PSA explains that measures would be included in the Final Staff Assessment (FSA) to ensure that the sides of the reservoir do not result in species entrapment and that water will not be

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available for ravens. CDFW recommends that the CEC incorporate Conditions of Certification (COCs) in the FSA requiring the Project owner to submit a reservoir management plan to the CEC Compliance Project Manager for CEC and CDFW review and approval prior to installation of the reservoir cover. The management plan would include details regarding the design of the floating cover, as well as measures to be implemented during installation of the cover and operation of the Project that would avoid and minimize any potential impacts to fish and wildlife resources. Recommended measures may include regular monitoring of the reservoir and floating cover, constructing appropriately sloped berms to allow for wildlife escape, and the installation of privacy slats within the chain link style fence located along the perimeter of the pond.

Streambed Alteration: The Project description and supplemental Data Request Responses provided by the applicant state that construction of the compressed air facility and ancillary infrastructure will not result in impacts to streams or other features subject to Fish and Game Code section 1602 (Section 1602). The applicant's submissions document multiple features within the study area that are potentially subject to Section 1602 but conclude that the Project would avoid impacts to these features based on the footprint of Project activities. PSA Sections 5.2, Biological, and Impact Analysis for State and Federal Jurisdictional Waters and Habitat, state that CEC staff do not concur with the applicant's determination that the Project will not impact any streams subject to CDFW's regulatory authority pursuant Fish and Game Code Section 1602. CDFW has conducted several site visits to the Project vicinity during which CDFW identified multiple streams and associated hydrological features within the Project site, particularly along the gen-tie line. Additionally, a review of hydrological and topographic mapping and aerial imagery of the Project site further supports the presence of multiple features within and adjacent to the Project site that may be impacted by Project activities.

Based on the information provided to date by the applicant, CDFW agrees with CEC staff that additional site-specific information and field verification are needed to determine if Project activities would or would not impact areas subject to Fish and Game Code Section 1602. CDFW recommends that the applicant provide additional information, including updated stream mapping as needed and detailed Project design layouts, to facilitate this determination. If this additional information and analysis shows that the Project would result in impacts to features subject to Section 1602, CDFW requests that CEC staff update the impacts analysis and COCs in the FSA to ensure compliance with Section 1602 requirements and reduce any impacts to less than significant. CDFW also encourages the CEC to maintain communication with the applicant to aid the applicant in the identification of stream resources that may be impacted by Project activities. CDFW is available to continue to assist the CEC in the analysis of potential Project-related impacts to waters subject to Section 1602 and with development of appropriate COCs.

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Western Joshua Tree: PSA Section 5.2, Western Joshua Tree (WJT), states that portions of the Project site have not yet been surveyed for WJT. PSA Section 5.2, Biological Resources, WJT, states that the Project owner will seek an Incidental Take Permit (ITP) for WJT under the Western Joshua Tree Conservation Act (WJTCA, Fish & G. Code, § 1927 et seq.). Pursuant to the WJTCA, no impacts to WJT can be authorized until after the CEC has received all information required under the WJTCA for issuance of a WJT ITP, including a complete WJT census, and the Project owner has paid the applicable mitigation fees. The census must include all WJT within the Project site applicable buffer (up to approximately 15 meters) around the Project site where impacts to WJT may occur. CDFW recommends that CEC staff update relevant COCs in the FSA, including BIO-12, to require the Project owner to survey all portions of the Project site that are not covered in the WJT census reports that the applicant has submitted to the CEC to date, including all portions of the gen-tie alignment.

In addition, before authorizing Project impacts to WJT, the CEC must ensure that the WJT ITP incorporates measures that avoid and minimize impacts to and the taking of WJT to the maximum extent practicable, including the submittal a WJT Relocation Plan for approval by the CEC and CDFW. CDFW also recommends that CEC staff update COCs relevant to WJT relocation in the FSA, including BIO-12, to require the project owner to implement maintenance, monitoring, and reporting measures for relocated WJT for the three-year maintenance period consistent with requirements in CDFW's Western Joshua Tree Relocation Guidelines and Protocols (updated April 2025), or the most recent guidelines.

Furthermore, the PSA does not analyze potential Project-related impacts to new WJT individuals, including any WJT stem or trunk that arises from the ground (e.g., resprouts) during or subsequent to Project construction or operations. Fish and Game Code 1927.3, subdivision (b), states that for purposes of WJT ITPs, "...each western Joshua tree stem or trunk arising from the ground shall be considered an individual tree requiring mitigation, regardless of its proximity to any other western Joshua tree stem or trunk." To ensure that all Project impacts to WJT are addressed in compliance with the WJTCA, any new WJT stem and/or trunk rising from the ground that is not accounted for in the WJTCA census associated with the COCs adopted by the CEC would require full avoidance or additional take coverage. CDFW recommends that the FSA include analysis of the potential for new WJT individuals to occur within the Project site and that CEC staff provide COCs detailing avoidance, minimization, and mitigation measures that would be implemented by the Project owner if the Project will impact any new stems or trunks that are not included in the WJTCA census associated with the CEC's adopted COCs. CDFW is available to assist the CEC during preparation of these COCs.

Finally, to fully analyze and mitigate potential impacts to WJT resulting from Project activities, CDFW recommends that the above-mentioned items be completed by the applicant and/or the CEC for review and CDFW consultation prior to issuance of the

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FSA. CDFW will continue to assist the CEC in its analysis of potential Project related impacts to WJT and in the development of appropriate COCs.

Water Resources: PSA Section 5.16, Water Resources, Water Supply, states that water supplies for the Project would be provided by the Antelope Valley-East Kern Water Agency (AVEK), which sources approximately 94 percent of its water deliveries from the State Water Project and produces the remaining six percent from the Antelope Valley groundwater basin (Basin No. 6-044). This basin is considered a low-priority basin under the Sustainable Groundwater Management Act (SGMA), is not considered critically over drafted, and is not subject to a groundwater sustainability plan under SGMA. However, the Antelope Valley groundwater basin is an adjudicated groundwater basin subject to a court ruling that defined the Antelope Valley Adjudication Area and created the Antelope Valley Watermaster Board (AVWB). The PSA also states that the Project would not decrease groundwater supplies, interfere with groundwater recharge, nor impede sustainable groundwater because the Project's annual water demand sourced from the Antelope Valley groundwater basin would be minimal (about 17 acre feet per year) and have a negligible impact on AVEK's annual groundwater allotment; in addition, the AVWB's administration of the adjudicated water rights and management of the groundwater resource support sustainable groundwater management of the basin.

CDFW recommends that the FSA include specific COCs to ensure the Project will comply with the Antelope Valley groundwater basin adjudication during construction and operation and comply with any directives from AVWB regarding groundwater production or management.

General Comments: To facilitate construction of the Project, Project activities would include mass grading of approximately 280.79-acres of high-quality desert scrub and annual grassland habitat. As noted in PSA Section 5.2, Sensitive Natural Communities and Native Vegetation, "desert habitats are typically slow to recover after ground-disturbing activities"; furthermore, "the recovery times for species composition are on the order of decades to centuries at a minimum". In addition to initial mass grading, Project activities would include blasting which would occur twice daily for two years, and 24-hour construction for up to five years. The removal of desert habitat and the utilization of sustained blasting and construction would result in increased environmental pressures, decreased ecological value, and compounding impacts to biological resources.

CDFW acknowledges that the Project's use of Advanced Air Compression technology in the generation of electricity is a novel approach to renewable energy for the State of California, and as such CDFW recognizes the complexity associated with providing a detailed analysis of potential impacts to biological resources. CDFW appreciates the applicant's and the CEC's efforts to evaluate and mitigate these potential impacts. Due to the nature of the Project and the challenges associated with accurately modeling impacts to biological resources, CDFW recommends that the FSA require regular monitoring and evaluation of the success of the included avoidance, minimization, and

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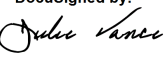
mitigation measures, and include COCs requiring the Project owner to provide an adaptive management plan for blasting and nightwork activities to the CEC for review and approval. CDFW also recommends that this plan include monitoring of blasting activities to better inform future blast design and revisions to avoidance and minimization measures as necessary to mitigate impacts to biological resources not previously identified. The adaptive management plan should provide noise, vibration, and lighting thresholds and implement a system of monitoring to ensure that Project activities do not exceed the identified thresholds and reduce Project-related impacts to less than significant levels.

CONCLUSION

CDFW appreciates the opportunity to comment on the PSA and will continue to meet with CEC staff prior to the distribution of the FSA to discuss potential Project related impacts and potential COCs for biological resources, as well as helping to address compliance with Fish and Game Code requirements, including Sections 1600 et seq. (Lake and Streambed Alteration), Section 1927 et seq. (WJTCA), and Section 2081(b) (Incidental Take Permit pursuant to CESA).

If you have any questions regarding these comments, please contact Bonna Newell, Senior Environmental Scientist (Specialist) at the address provided on this letterhead, by telephone at (559) 903-1033, or by electronic mail at Bonna.newell@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager