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Energy Storage Center, California Energy Commission, Docket No.
21-**

Additional submitted attachment is included below.

Lahontan Regional Water Quality Control Board

June 16, 2025

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Willow Rock Energy Storage Center
Kern County

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Comments on the Preliminary Staff Assessment for Willow Rock Energy Storage Center, California Energy Commission, Docket No. 21-AFC-02, Kern County

Lahontan Regional Water Quality Control Board (Lahontan Water Board) staff are providing these comments on the Preliminary Staff Assessment (PSA) for the Willow Rock Energy Storage Center (Project). On April 14, 2025, Lahontan Water Board staff submitted a set of draft permit provisions (Draft Waste Discharge Requirements [Draft WDRs]) for California Energy Commission's (CEC's) inclusion into the conditions of their certification and which are substantively equivalent to those that the Water Board would prescribe via WDRs implementing the Water Quality Control Plan for the Lahontan Region, and State Water Board plans and policies. The PSA included our April 2025 Draft WDRs as Attachment A to Section 5.16 Water Resources, but the PSA did not properly reference the requirements, provisions, and monitoring outlined in the Draft WDRs. This letter is intended to clarify the Draft WDRs with respect to the WATER conditions of certification (COC) identified in the PSA and to provide comments on Section 5.16 Water Resources and Section 5.2 Biological Resources.

1. Section 5.16.1 – Environmental Setting, Surface Water and Stormwater Drainage. The statement that there are no water bodies within the Project watershed is incorrect. There are many ephemeral and intermittent streams, wetlands, clay pans, and playas within the watershed, and all fall under the jurisdiction of the Lahontan Water Board as waters of the State.
2. Section 5.16.1, Environmental Setting Regulatory, *Federal*. It is correct to state that the Project would not discharge to a water of the United States (water of the US), and therefore no federally delegated permit under the Clean Water Act or National Pollutant Discharge Elimination System (NPDES) would be required. All relevant or applicable waste discharge requirements have been included in the Draft WDRs and should be incorporated by reference throughout the Final Staff Assessment (FSA).

3. Section 5.16.1, Environmental Setting Regulatory, *State*. We request that CEC remove in its entirety all reference to SWRCB Water Quality Order No. 2003-0003-DWQ, Statewide General Waste Discharge Requirements for Discharges to Land with a Low Threat to Water Quality from the PSA and FSA. The substantive requirements of this general order that are applicable to the boring waste and construction of the temporary lined ponds, including monitoring and reporting requirements, are already included in sections C, G, and H of the Draft WDRs and should be incorporated by reference throughout the FSA.
4. Section 5.16.2.2.a, *Construction*.
 - a. WATER-1 requires compliance with the NPDES Construction General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit, or CGP) administered by the State Water Board and Regional Boards. However, as stated in Comment No. 2 above, and referenced throughout the PSA, the Project will not discharge to a water of the US and therefore the Project is not subject to regulation under a federally delegated permit including NPDES. CEC could require the applicant to comply with the substantive requirements of the CGP, including preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP), but not including enrollment, submitting Project Registration Documents, and payment of an annual fee to the State Water Board. Alternately, our recommendation is that the CEC remove reference to the CGP from the FSA and WATER-1 and instead reference the requirements for stormwater discharges that are already contained in Section E of the Draft WDRs.
 - b. This section mentions the potential to dewater during excavation activities. However, the project description and information provided by the applicant did not discuss dewatering activities as being part of the project. As a result, the Draft WDRs do not contain requirements for dewatering activities. If dewatering is necessary and part of this project, the applicant should provide information on those projected activities so that we can identify the appropriate and relevant discharge requirements to protect water quality. Because the Project is not required to be enrolled under the CGP, dewatering activities would not be covered under the CGP and should not be permitted without prior authorization.
 - c. This section references SWRCB Water Quality Order No. 2003-0003-DWQ as WATER-3. All reference to this general order should be removed and the requirements that are applicable to the boring waste and construction of the temporary lined ponds, including monitoring and reporting requirements, in sections C, G, and H of the Draft WDRs be incorporated by reference throughout the FSA and WATER-3.
5. Section 5.16.2.2.c.i-ii and 5.16.2.2.e, *Construction and Operation*. The references to WATER-1 and the mitigation being implementation of the SWPPP prepared in association with the CGP is not appropriate and should be replaced with the requirements for stormwater discharges contained in Section E of the Draft WDRs (see Comment 4.a above).

6. Table 5.16-1, Conformance with Applicable LORS [Laws, Ordinances, Regulations, and Standards].
 - a. The Federal Clean Water Act and NPDES are not applicable LORS and should be removed from the table.
 - b. SWRCB Water Quality Order No. 2003-0003-DWQ is a potentially applicable state LOR, however, the Draft WDRs already include requirements that are applicable to the boring waste and construction of the temporary lined ponds under the authority of California Water Code sections 13260 and 13263 and the submittal of technical and/or monitoring reports under California Water Code section 13267. Please remove reference to SWRCB Water Quality Order No. 2003-0003-DWQ and add the Water Code references herein as applicable state LORS.
7. Section 5.16.5, Proposed Conditions of Certification.
 - a. WATER-1. Reference to the CGP should be removed and the requirements for stormwater discharges contained in Section E of the Draft WDRs be incorporated as WATER-1.
 - b. WATER-3. Reference to SWRCB Water Quality Order No. 2003-0003-DWQ should be removed and the requirements that are applicable to the boring waste and construction of the temporary lined ponds, including monitoring and reporting requirements, in sections C, G, and H of the Draft WDRs be incorporated as WATER-3.
 - c. WATER-3. The PSA includes language describing the Commission's intent that the requirements be enforceable by both the Commission and the Water Boards and that the Commission delegates enforcement and annual fee collection authority of these requirements to the Water Boards. This language has been included in other PSAs in the past. The Lahontan Regional Board staff appreciates the collaboration between the agencies in ensuring water quality protection, and is committed to assisting with monitoring and inspections of the facility. However, the current language may not accurately reflect the latest understanding between the Water Boards (all 9 Regional Boards and the State Water Resources Control Board) and the Commission regarding compliance, enforcement, and annual fee collection. We suggest that the language within the Willow Rock PSA be updated to more accurately define the Lahontan Regional Board's role in compliance verification, enforcement, and annual fee collection.
8. Section 5.2, Biological Resources. A number of ephemeral streams have been identified within the Project area that fall under the jurisdiction of the Lahontan Water Board as waters of the state, as documented in Table 5.2-3. Potential impacts to some of these features will occur during construction of the gen-tie line resulting from pole placement, underground utility trenching, and equipment access. These impacts are considered temporary provided the disturbed area is restored after construction. We recommend

that BIO-24 be revised to also include the requirements contained in the Draft WDRs, Section D, Requirements for Fill and Excavation Discharges to Surface Waters.

9. The Project owner shall make payments to the State Water Resources Control Board, based upon a fee schedule in California Code of Regulations, Title 23, section 2200 for a Discharge to Land, that is exempt from the requirements of Title 27 of the California Code of Regulation, with a Threat to Water Quality Rating of 2 and Complexity Rating of C.

If you have any questions regarding this matter, please contact me at (760) 241-7376 or email at (jan.zimmerman@waterboards.ca.gov) or Christina Guerra, Senior Engineering Geologist at (760) 241-7333 or email at (christina.guerra@waterboards.ca.gov).

Please send all correspondence regarding Willow Rock Energy Storage Center to the Water Board's email address at Lahontan@waterboards.ca.gov.

for Jan Zimmerman, P.G.
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