

DOCKETED

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STATE OF CALIFORNIA

**State Energy Resources Conservation
and Development Commission**

In the Matter of:)
)
Application for Certification for the)
Willow Rock Energy Storage Center)
)
_____)

Docket No. 21-AFC-02

**APPLICANT’S RESPONSE TO CEC STAFF’S ISSUES IDENTIFICATION REPORT
AND PROPOSED SCHEDULE**

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**STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission**

In the Matter of:)
)
Application for Certification for the) Docket No. 21-AFC-2
Willow Rock Energy Storage Center)
)
_____)

**APPLICANT’S RESPONSE TO CEC STAFF’S ISSUES IDENTIFICATION REPORT
AND PROPOSED SCHEDULE**

Pursuant to the *Notice of Public Site Visit, Informational Hearing, and Committee Order* (“Committee Notice”) docketed August 1, 2022¹, GEM A-CAES LLC (“the Applicant”) provides this response to California Energy Commission (“CEC”) Staff’s *Issues Identification Report and Proposed Schedule* (“IID Report”) for the Willow Rock Energy Storage Center (“Willow Rock”).²

I. RESPONSE TO STAFF’S IID REPORT

The Applicant is in the process of reviewing and preparing response to CEC Staff’s Data Requests Set 1.³ Based on a review of the IID Report and Data Requests Set 1, the Applicant has concerns regarding several of the identified potential issues, particularly with respect to the nature of the identified issue and the stated scope of information needed to address the potential issues.

A. BIOLOGICAL RESOURCES

SURVEY AREAS. As to the specific issue of survey areas, Data Request Set 1 contains several data requests for surveys of buffer areas extending from 1,000 feet for the project site and 500 feet on either side of the centerline for project linears. The Applicant is unaware of any applicable law, ordinance, regulation, or standard (“LORS”) or protocol requiring such extensive surveys to be conducted. The Applicant believes that further discussion with CEC Staff to understand the basis for this request is warranted.

SPECIES-SPECIFIC SURVEYS. The IID Report states that no surveys for several special-status species were conducted. The Applicant disagrees that the additional, focused surveys for these species identified by Staff are necessary. For example, the project site is located outside of the known range for one species, the Mohave ground squirrel. For the desert kit fox and American badger, there are no specialized survey protocols for these species, and appropriate

¹ TN#: 244282.

² TN#: 244313.

³ TN#: 244203.

baseline environmental information for each species, including a description of potential habitat, burrow characterizations, and documented observations (or lack thereof) for each species. Similarly, the Crotch bumblebee is not a listed species, and there are no established survey protocols for this species.

Given the differing positions with respect to biological resources, the Applicant recommends that Applicant and Staff meet and confer with respect to biological resources.

B. CULTURAL RESOURCES/TRIBAL CULTURAL RESOURCES

The Applicant is available to assist Staff in its conversations with the Tribes or otherwise engage and participate in consultations as requested by the Tribes.

C. GEOLOGICAL RESOURCES

The Applicant has been working diligently with CEC Staff and Kern County with respect to the project's geotechnical data collection activities. As described in the IID Report, the Applicant is completing geotechnical activities at the Willow Rock⁴ site. Due to supply chain and other issues beyond the Applicant's sole control, geotechnical data collection activities are ongoing. Further, the Applicant is in the process of optimizing the project design, based in part on the geotechnical data collected to date and the engineering enhancements made possible by the diligent pursuit of the best possible energy storage project. The Applicant anticipates that geological resources and other items raised by CEC Staff with respect to this technical area should be the subject of at least one technical workshop.

D. LAND USE/TRANSPORTATION

The Applicant is committed to working with Kern County regarding the rezone of the project site to Agriculture (A) Zone District and resolving any access road dedication issues. The Applicant believes that the timing for when the rezone and other land use actions occur should be the subject of discussion between Kern County, CEC Staff, and the Applicant. In particular, the Applicant believes that publication of the Final Staff Assessment should not be contingent upon Kern County rezone of the parcels.

II. RESPONSE TO PROPOSED PROJECT SCHEDULE

The Applicant has concerns with the proposal that publication of the Preliminary Staff Assessment "occur no later than 60 days after staff notifies the Committee... that staff has received complete and satisfactory answers to its data requests and thus has no further data requests."⁵ Unlike the small power plant exemption ("SPPE") proceedings referenced in the IID Report, the initial informational requirements for an Application for Certification ("AFC") far exceeds that of an SPPE application. Further, the discovery period for an SPPE application is significantly shorter than in an AFC proceeding. The Applicant is concerned with the potential schedule impacts of Staff's proposal, particularly given that Staff has indicated that it intends to

⁴ The Applicant submitted a Notice of Project Name Change on August 5, 2022 (TN#: 244331).

⁵ IID Report, p. 7.

file a motion to lengthen the period for discovery in this proceeding. However, the Applicant also recognizes that it will be requesting additional time to respond to certain data requests. Accordingly, the Applicant recommends the following proposed schedule, which balances both the need to timely permit the project and provisions of responses to data requests.

ACTIVITY	DATE
AFC filed	12-21-2021
AFC Data Adequacy determination at Commission Business Meeting	7-14-2022
Staff files Data Requests, Round 1	7-26-2022
Staff files Issues ID Report	8-4-2022
Applicant files response to Issues ID Report	8-9-2022
Site Visit & Informational Hearing	8-11-2022
Applicant files Section 1716 Notice	8-15-2022
Data Request & Issues Resolution Workshop	Week of August 22, 2022
Applicant files Data Responses Set 1A	8-25-2022
Applicant files Data Responses Set 1B	9-25-2022
Staff files Data Requests Set 2	TBD
Data Request & Issues Resolution Workshop	TBD
Applicant files Data Responses Set 2	TBD
Last day to file petition to intervene	10-24-2022
EKAPCD issues Preliminary Determination of Compliance (PDOC)	11-21-2022
Preliminary Staff Assessment filed	1-30-2022
Preliminary Staff Assessment workshop	Week of February 6, 2023
Close of discovery period	2-9-2023
Public Comments on PSA due date	3-1-2023
EKAPCD issues Final Determination of Compliance (FDOC)	3-1-2023
Final Staff Assessment filed	5-1-2023
Opening Testimony filed	5-15-2023
Reply Testimony filed	5-22-2023
Prehearing Conference*	5-29-2023
Evidentiary Hearings*	Week of June 6, 2023
Briefs	June 2023
Committee files Presiding Member's Proposed Decision*	July/August 2023
Hearing on Presiding Member's Proposed Decision	August 2023
Committee files errata to PMPD (if necessary)*	TBD
Commission issues final Decision*	August/September 2023

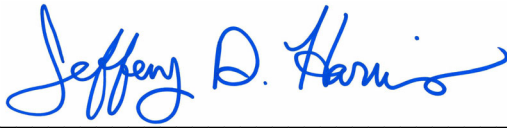
III. CONCLUSION

The Applicant thanks the Committee for the opportunity to respond to the IID Report, and looks forward to the Site Visit and Informational Hearing.

Dated: August 9, 2022

Respectfully submitted,

ELLISON, SCHNEIDER & HARRIS L.L.P.

By  _____

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