

DOCKETED

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**Defenders of Wildlife Comments on Willow Rock Energy Storage
Center Set 2**

Additional submitted attachment is included below.



California Program Office

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December 16, 2022

Leonidas Payne
California Energy Commission
715 P Street
Sacramento, CA 95814

Julie Vance
California Department of Fish and Wildlife
1234 E. Shaw Avenue
Fresno, CA 93710

RE: Willow Rock Energy Storage Center; Docket Number 21-AFC-02

Dear Mr. Payne and Ms. Vance,

On behalf of Defenders of Wildlife, I am writing to raise serious concerns regarding the validity of the biological information and data associated with the proposed Willow Rock Energy Storage Center (Project). Defenders of Wildlife (Defenders) represents nearly 2.2 million members and supporters in the United States, 323,000 of which reside in California.

Defenders strongly supports responsible energy storage development that is instrumental in meeting California's renewable energy development goals. As we transition toward a clean energy future, it is imperative for our future and the future of our wild places and wildlife that we strike a balance between addressing the near-term impact of energy development with the long-term impacts of climate change on our biological diversity, fish and wildlife habitat, and natural landscapes. To ensure that the proper balance is achieved, we need smart planning for projects that avoid and minimize adverse impacts on wildlife and lands with known high-resource values. We also need to ensure that individual projects are sited with appropriate measures to avoid, minimize and mitigate for impacts to natural resources. Finally, we strongly believe that it is also important to provide for meaningful public comment and review of projects as part of the state's responsibility to protect our public trust resources.

The Project, which is located in Kern County, is a 71-acre 500 MW, 4,000 MWh advanced compressed air energy storage center. This project, depending on its design, including avoidance, minimization and mitigations measures, could significantly impact several special-

status species and their habitats, including but not limited to the following: American badger, burrowing owl, Crotch's bumble bee, desert tortoise, Mohave ground squirrel, Swainson's hawk and Joshua tree. However, based on the concerns raised below, we do not believe that sufficient data has been provided by the project applicant either to the California Energy Commission (CEC), California Department of Fish and Wildlife (CDFW) or the public, as part of the CEC proceeding. This severely limits the public's ability to provide meaningful review and comment as to the potential impacts from this project or what could be meaningful avoidance, minimization or mitigation measures.

The below-referenced problems with data collection and survey methods will result in the agencies failing to receive and analyze accurate natural resources data, which, in turn, jeopardizes the entire siting proceeding. This could be used by future applicants in other siting proceedings to stymie public engagement and sufficient analysis of project impacts on biological sources. We urge the CEC and CDFW to closely review the survey data to ensure that the applicant has adhered to appropriate survey protocols for the species identified below. If, as we suspect, the survey results are flawed, the CEC must request that the project applicant conduct new biological surveys.

Defenders previously submitted comments on the Project to the CEC on November 10, 2022, and we reiterate our previous comments while offering the following additional concerns.

Concerns

1. **Validity of Surveys:** Defenders has reviewed the biological resources survey information submitted by the applicant and finds the information highly questionable. It is improbable that the surveys covered the transects they claimed within the amount of time and number of personnel indicated. Defenders recommends that the CEC and CDFW reexamine the biological resources surveys and analyze for adequacy and the plausibility that the surveys could be conducted with the number of personnel and timeframe stated.
 - a. **Burrowing Owl:** The dates and the personnel claimed for the burrowing owl surveys raises concerns regarding the accuracy of the surveys for the Project. The surveys were conducted across 11 days during the spring and summer of 2021. The survey area for burrowing owls included the 977-acre project boundary and a 150-meter buffer which equals approximately a total of 4,460 acres of survey area. Within those 11 days that the surveys were conducted, several were not a full day's work dedicated to burrowing owl surveys. According to the applicant's Data Request Response, surveys took place on May 3rd to 6th 2021 and May 25th and 26th, 2021, and were conducted during the

morning and/or late afternoon/evening hours and therefore were not a full-day of burrowing owl survey work.¹

Aside from the questionable timeline and personnel dedicated to surveys, Defenders is also concerned about the way the surveys were conducted. While our previous comments addressed some of these concerns, we emphasize that it is highly irregular for surveys for multiple biological resources to be conducted concurrently. We do not believe that a biologist can adequately survey for multiple species at the same time and produce accurate or trusted results. Five of the 11 days listed for burrowing owl surveys were also days when rare plant species surveys were conducted by the same field biologists. The fact that the same two biologists also concurrently conducted rare plant surveys during five of the days makes the results even more unreliable. It is impossible for a biologist to dedicate adequate attention to both rare plants and burrowing owls and to expect reliable and accurate survey results in just a few days of surveying.

Questioning of the accuracy of the surveys is warranted given the large amount of acreage, survey duration, and use of the same field biologists doing concurrent surveys for both rare plants and burrowing owls. The Data Request Response acknowledged that suitable burrowing habitat was observed on site and the species is known to occur within the Project vicinity². Therefore, it is baffling that the applicant and their biological consultant would not dedicate the appropriate personnel and time to adequately survey over 4,000 acres. Defenders recommends that the CEC and CDFW closely review the survey methodology and results to ensure that there was sufficient time and effort afforded to produce reliable survey data.

- b. **Desert Tortoise:** According to the applicant's Data Request Response, the survey area for desert tortoise consists of the Project boundary and covered approximately 977 acres.³ The desert tortoise surveys were conducted over a period of four days in the Spring of 2021 by two biologists walking 10-meter-wide belt transects. The biologists traveled approximately 127.7 miles within the survey area for a total daily effort of approximately 18.2 miles per surveyor.⁴ The ability of a surveyor to cover 18.2 miles per day, document field findings, and produce reliable results is highly questionable and warrants examination. Defenders recommends that the CEC and CDFW further scrutinize the surveys to

¹ Gem A-CAES LLC. Willow Rock Energy Storage Center; Docket No. 21-AFC-02. Data Request Response Set 1 Workshop Responses. November 16, 2022.

² *Ibid.*

³ Gem A-CAES LLC. Willow Rock Energy Storage Center; Docket No. 21-AFC-02. Data Request Response Set 1 Workshop Responses. Attachment DR 31-1 Desert Tortoise Survey Report. November 16, 2022. P. 1.

⁴ Gem A-CAES LLC. Willow Rock Energy Storage Center; Docket No. 21-AFC-02. Data Request Response Set 1 Workshop Responses. Attachment DR 31-1 Desert Tortoise Survey Report. November 16, 2022. P. 2.

ensure an adequate amount of time and personnel were dedicated to produce reliable survey results.

- c. **Rare Plant:** Similar to the issue with the burrowing owl survey above, Defenders is concerned about the validity of the rare plant survey. As noted by the CEC staff in the Data Request Set 1 (July 26, 2022), since this area has experienced persistent drought, it is important to ensure that biologists who specialize in botany and are experienced with the local flora should be conducted detailed surveys. However, as noted above, the two biologists who surveyed for rare plants were concurrently surveying for burrowing owl on April 13th and 15th, 2021 and May 3rd and 5th, 2021. Biologists cannot concurrently survey rare plants and burrowing owls and expect accurate results, particularly in such a short amount of time. The ability to complete both surveys is unlikely, especially considering that survey hours on May 3rd and 5th, 2021 were limited to early morning and late afternoon hours. The limited hours spent over four days appears to mean that the biologists were covering more than 18.2 miles per day. It seems implausible to cover more than 18 miles of survey when one is only surveying for limited hours for two of those days. Therefore, it stretches the boundaries of credulity for a surveyor to accurately conduct surveys of burrowing owl and/or desert tortoise and rare plants at the same time and within the limited hours and days. Therefore, Defenders strongly recommends that the CEC and CDFW examine the survey methodologies and results closely.

We note further that Field Notes Part 4 contradicts the dates claimed for the rare plant surveys. Field Notes Part 4 indicates plant surveys were conducted on May 26, 2021 and June 16, 2021. Both dates are not listed within and contradict the Biological Technical Report. Defenders recommends that the applicant provide clarification on the dates that all plant surveys were conducted.

2. **Failure to survey for bats:** As review of the attached U.S. Geological Survey topographical map shows, that there appears to be two open mine shafts south of the Project site boundary, including one mine shaft that is approximately 350 feet from the site. Blasts from the project could disrupt roosts if they are present in the mine shaft. As CDFW noted in its August 31, 2022, letter to the CEC, the project applicant should conduct surveys for bats within the Project and within at least a 500-foot buffer.

Conclusion

Defenders is deeply concerned that necessary biological information is absent from the docket due to inadequate survey results. Unless fully analyzed and properly designed and mitigated, the Project could significantly and unavoidably impact several important special-status species. Therefore, robust appropriate, informed, and meaningful agency and public analysis and review of the project is of the utmost importance. This can only be achieved if the project applicant provides accurate and detailed biological information. The time and expense the application is

expending to sidestep compliance with standard protocols for biological assessment and basic project transparency would be better spent on meeting those requirements and positioning the project to move smoothly through the permitting process.

We appreciate the opportunity to raise these important concerns and recommendations. If you have any questions, please contact me at 408-603-4694 or via email at smarkowska@defenders.org.

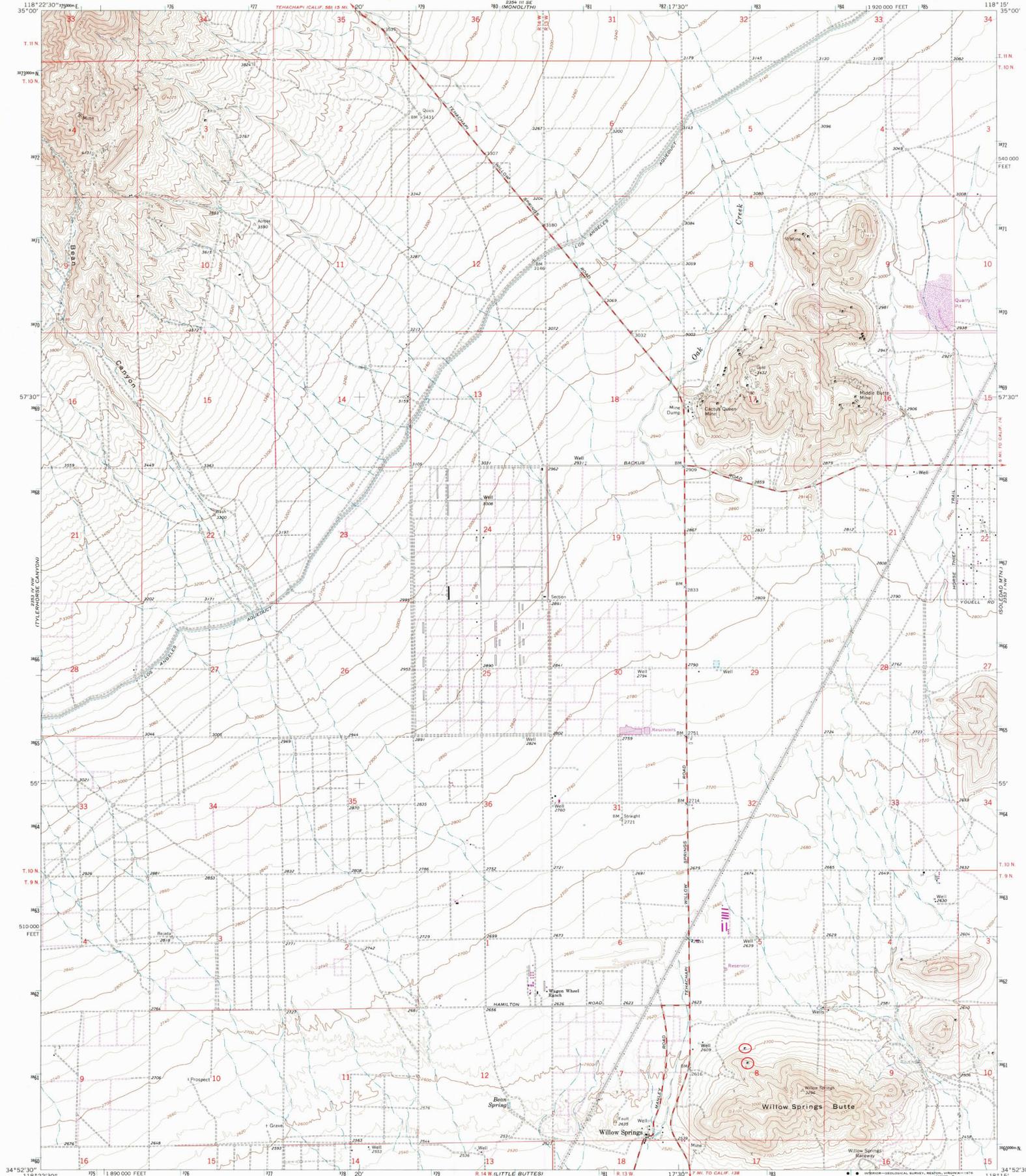
Respectfully submitted,

A handwritten signature in black ink that reads "Sophia Markowska". The signature is written in a cursive, flowing style.

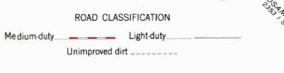
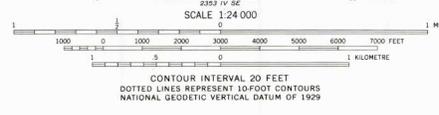
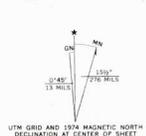
Sophia Markowska
Senior California Representative

Attachment 1

U.S. Geological Survey Topographical Map



Mapped, edited, and published by the Geological Survey
Control by USGS and NOS/NOAA
Topography by photogrammetric methods from aerial
photographs taken 1963. Field checked 1965
Polyconic projection. 1927 North American datum
10,000-foot grid based on California coordinate system, zone 5
1000-metre Universal Transverse Mercator grid ticks,
zone 11, shown in blue
Revisions shown in purple compiled from aerial photographs
taken 1974. This information not field checked



THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U. S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST



WILLOW SPRINGS, CALIF.
N3452.5-W11815.7-15
1965
PHOTOREVISED 1974
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