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Project Title:	Willow Rock Energy Storage Center
TN #:	248386
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**STATE OF CALIFORNIA
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 NOTICE PURSUANT TO 20 C.C.R. § 1716(f)
FOR CEC STAFF’S DATA REQUESTS SET 3**

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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 NOTICE PURSUANT TO 20 C.C.R. § 1716(f)
FOR CEC STAFF’S DATA REQUESTS SET 3**

Pursuant to Section 1716(f) of the California Energy Commission’s (“CEC”) regulations, GEM A-CAES LLC (the “Applicant”) hereby provides this notice that additional time is required to respond to CEC Staff’s Data Requests Set 3, Data Requests 150, 151, and 152.¹ The Applicant also provides notice of its objection to Data Requests 148 and 149. Without waiving any of these objections, Applicant reserves the right to provide responses in whole, or in part, to some or all of these Data Requests.

I. NEED FOR ADDITIONAL TIME TO RESPOND

Data Request 150 requests information regarding project optimization, including a projected schedule for completion of project optimization activities. Additional time is required to respond to Data Request 150 because the Applicant is actively working to complete project optimization activities, including ongoing geotechnical data collection activities. The Applicant expects to provide the projected timeframe to respond to Data Request 150 and other data requests relating to project optimization in its next status report that will be filed on or before January 26, 2023.

Data Requests 151 and 152 request information regarding the non-specialized construction labor requirements and percentage of local and nonlocal workforce. This

¹ TN#: 248218.

information is not yet available. The Applicant will provide responses to these data requests when the information is available.

II. NOTICE OF OBJECTION

The Applicant objects to Data Requests 148 and 149 as not meeting the requirements of Section 1716 of the Commission’s regulations. Section 1716(b) of the Commission's regulations requires that information requested from the Applicant be reasonably available to the Applicant. Section 1716 does not require that an applicant “perform research or analysis on behalf of the requesting party.”² Data Requests 148 and 149 request that the Applicant perform new surveys and provide a survey report for the Crotch’s bumble bee. Such information is not reasonably available to the Applicant and requires that the Applicant perform research and analysis on behalf of the requesting party.

Further, the requested information is neither relevant nor reasonably necessary to make a decision on the Application For Certification as the project site “does not contain the suitable habitat required for this species” and the species is not likely to occur on site. (See, TN#: 247494, pdf p. 54.) There are no known recorded occurrences on or near the project site, nor within the 6.8 mile foraging range described in the Background to Data Requests 148 and 149. (See, TN#: 247494.) The documented sightings identified in the Background do not alter this conclusion — all of the referenced locations are more than 10 miles away from the project site (and in some cases over 20 miles away). The habitat assessment specifically considered the key constituent habitat components for the Crotch’s bumble bee, including those necessary for suitable nesting sites. (TN#: 247494, p. 3.) The species was identified in literature reviews for the Project site and were specifically considered in the biological resources assessment and

² See Committee Ruling on Intervenor Center for Biological Diversity’s Petition to Compel Data Requests, Docket No. 07-AFC-6 (Dec. 26, 2008).


subsequent surveys of the site. (TN#: 242779.) No evidence of this species has been observed on site. (TN#: 242779.) Given the information already provided in this proceeding, including the habitat assessment and biological resources technical report, the Applicant objects to Data Requests 148 and 149.

The Applicant also has significant concerns with the request to conduct surveys where protocols have yet to be developed and where the exact scope and requirements of the surveys are undefined. Without waiving any of these objections, Applicant reserves the right to provide responses in whole, or in part, to some or all of these Data Requests. As with the other data requests relating to biological resources, the Applicant believes that resolution of these issues would benefit from additional discussions between the parties.

Dated: January 12, 2023

Respectfully submitted,

ELLISON SCHNEIDER HARRIS & DONLAN LLP

By  _____

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