

DOCKETED

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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-02
Willow Rock Energy Storage Center)
)
_____)

**WILLOW ROCK ENERGY STORAGE CENTER
STATUS REPORT NO. 6**

Pursuant to the *Committee Scheduling Order* (“Scheduling Order”) docketed August 31, 2022,¹ GEM A-CAES LLC (“the Applicant”) hereby submits this status report to inform the Committee regarding the progress of the Application for Certification (“AFC”) proceeding for the Willow Rock Energy Storage Center (“Willow Rock”).²

STATUS OF PROCEEDING

On January 12, 2023, the Applicant filed a *Notice Pursuant to 20 C.C.R. § 1716(f) for CEC Staff’s Data Request 3* (“January 12th Notice”).³ In the January 12th Notice, the Applicant objected to California Energy Commission (“CEC”) Staff’s Data Requests 148 and 149 relating to the Crotch’s bumble bee. The Applicant objected on the basis that the project site “does not contain the suitable habitat required for this species” and the species is not likely to occur on site.⁴ The Applicant also expressed concerns regarding the lack of defined survey protocols for the Crotch’s bumble bee, but also stated a belief that these issues could be resolved through discussions between the parties.

Subsequent to the filing of the January 12th Notice, the Applicant requested an information exchange with CEC Staff and the California Department of Fish and Wildlife (“CDFW”) regarding the Crotch’s bumble bee.⁵ CEC Staff filed its Status Report #5 indicating that it would “continue discussions with the applicant regarding the feasibility of providing responses to those two data requests.” An information exchange was scheduled for February 8, 2023, whereby attendance was cancelled the night before by the agencies.

The next day, on February 9, 2023, CEC Staff filed a response (“February 9th Response”)⁶ to the Applicant’s January 12th Notice, but elected not to file a motion to compel. The Applicant has been informed that CEC Staff will not hold an information exchange or workshop to resolve the

¹ TN#: 245754.

² TN#: 244313.

³ TN#: 248386.

⁴ See, TN#: 247494, pdf p. 54.

⁵ TN#: 248552.

⁶ TN#: 248720.

issues raised by Data Requests 148 and 149 and has instead been directed to work with CDFW with respect to survey protocols for the Crotch's bumble bee.

The Applicant has repeatedly requested either a workshop or information exchange with CDFW and CEC Staff to discuss issues relating to the appropriate scope and protocols to be used for surveys for the Crotch's bumble bee. The Applicant continues to believe that issue resolution is best accomplished through informed exchanges and dialogue between the parties and their experts, particularly where there are concerns regarding the factual assumptions used to justify a data request and lack of defined and clear regulatory guidance regarding survey protocols.⁷

For example, rather than asking for a copy of the qualifications of the biologist who conducted the habitat assessment, the CEC Staff's February 9th Response asserts, without any basis, that the habitat assessment was not written by a qualified biologist.⁸ If there were questions about the qualifications of the senior biologist who conducted the biological assessment, the Applicant would have provided the resume of the individual. Rather than asking about the information and reports Dr. Doug Yanega reviewed to evaluate the potential for Crotch's bumble bee to occur on-site, the February 9th Response makes assumptions about the documents reviewed and content of those documents.⁹ The February 9th Response faults the habitat assessment for being incomplete, but the Applicant has never asked, or provided the opportunity, to provide clarification and more specific details.

Further, the February 9th Response makes several assertions that there is a historic record of the Crotch's bumble bee within the project footprint from 1974. This is incorrect. The reported record from forty-nine (49) years ago is incorrectly characterized. The location for the nearly fifty year old report is not on the Project site itself, as suggested, but rather is near an alternative linear routing.¹⁰ There are simply no current, or even more recent vintage, sightings of the Crotch's bumble bee within ten (10) miles of the Project site, and the Project site itself does not contain the key constituent habitat components for the species.

These factual matters are only a few of the types of issues and questions that are easily resolved with dialogue between the parties. The Applicant will continue to work with CDFW and CEC Staff and remains hopeful that constructive and productive information exchanges can occur.

With respect to other Project activities, spring biological resources survey activities are ongoing. The Applicant will continue to provide schedule and other updates in its Status Reports.

Dated: February 23, 2023

Respectfully Submitted,

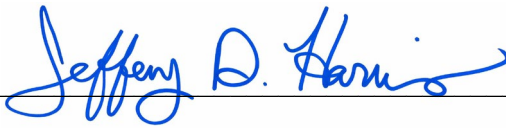
⁷ For example, the survey protocol provided by the agencies were from the U.S. Fish and Wildlife Service for a different bumble bee species.

⁸ See, TN#: 248720, p. 2. The February 9th Response also asserts that only a "short site visit" was conducted to confirm site conditions were not significantly changed. The source for this premise is unclear.

⁹ See, TN#: 248720, pp. 2, 5.

¹⁰ See, TN#: 248720, p. 4.

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By  _____

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