

DOCKETED

Docket Number:	21-AFC-02
Project Title:	Willow Rock Energy Storage Center
TN #:	259795
Document Title:	Willow Rock Energy Storage Center Applicant's Response to Issues Identification Reports
Description:	N/A
Filer:	Amanda Cooley
Organization:	Ellison Schneider Harris & Donlan LLP
Submitter Role:	Applicant Representative
Submission Date:	10/30/2024 4:12:54 PM
Docketed Date:	10/30/2024

**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
APPLICANT’S RESPONSE TO ISSUES IDENTIFICATION REPORTS**

Pursuant to the *Notice of Site Visit and Informational Hearing, and Committee Order* published on October 2, 2024,¹ GEM A-CAES LLC (the “Applicant”) submits this Response to the Issues Identification Reports filed by California Energy Commission (“CEC” or “Commission”) Staff, California Unions for Reliable Energy (“CURE”), and the Center for Biological Diversity (“CBD”) relating to the Supplemental Application for Certification (“SAFC”) proceeding for the Willow Rock Energy Storage Center (the “WRESC”).²

I. RESPONSE TO PARTIES’ ISSUES IDENTIFICATION REPORTS

As a threshold matter, the Applicant thanks stakeholders and the Parties for their participation in this proceeding. To date, the interactions between Applicant, CEC Staff, CURE, and CBD have been professional, productive, and civil. While all Parties will undoubtedly remain vigilant in pursuing their interests and may not reach consensus on the pace of schedule for this important long duration-energy storage (“LDES”) project, the Applicant appreciates the tone of cooperation and civility in that advocacy.

The Issues Identification Reports filed by the Parties identified a limited number of subject areas as potential issues areas. As the following table demonstrates, of the 25 subject areas typically evaluated in an Application for Certification proceeding, only seven have been identified by Parties as a potential issue area: Air Quality, Biological Resources, Cultural Resources, Geological Hazards, Noise and Vibration, Public Health, and Water Resources.

(Remainder of this page intentionally left blank)

¹ TN #: 259430, corrected on October 11, 2024.

² *Id.*, p. 5.

SUMMARY OF ISSUES IDENTIFIED BY THE PARTIES

	WRESC	CEC Staff	CURE	CBD
EXECUTIVE SUMMARY	No issues Identified	No issues Identified	No issues Identified	No issues Identified
PROJECT DESCRIPTION	No issues Identified	No issues Identified	No issues Identified	No issues Identified
ALTERNATIVES	No issues Identified	No issues Identified	No issues Identified	No issues Identified
AIR QUALITY	No issues Identified	No issues Identified	See TN # 259672	No issues Identified
BIOLOGICAL RESOURCES	No issues Identified	See TN # 259671	See TN # 259672	See TN # 259668
CULTURAL RESOURCES	No issues Identified	See TN # 259671	No issues Identified	No issues Identified
EFFICIENCY	No issues Identified	No issues Identified	No issues Identified	No issues Identified
FACILITY DESIGN	No issues Identified	No issues Identified	No issues Identified	No issues Identified
GEOLOGICAL HAZARDS	No issues Identified	No issues Identified	See TN # 259672	No issues Identified
HAZARDOUS MATERIALS	No issues Identified	No issues Identified	No issues Identified	No issues Identified
LAND USE	No issues Identified	No issues Identified	No issues Identified	No issues Identified
NOISE AND VIBRATION	No issues Identified	No issues Identified	See TN # 259672	No issues Identified
PALEONTOLOGICAL RESOURCES	No issues Identified	No issues Identified	No issues Identified	No issues Identified
PUBLIC HEALTH	No issues Identified	No issues Identified	See TN # 259672	No issues Identified
RELIABILITY	No issues Identified	No issues Identified	No issues Identified	No issues Identified
SOCIOECONOMICS	No issues Identified	No issues Identified	No issues Identified	No issues Identified
SOILS	No issues Identified	No issues Identified	No issues Identified	No issues Identified
TRAFFIC AND TRANSPORTATION	No issues Identified	No issues Identified	No issues Identified	No issues Identified
TRANS LINE SAFETY & NUISANCE	No issues Identified	No issues Identified	No issues Identified	No issues Identified
TRANSMISSION SYSTEM DESIGN	No issues Identified	No issues Identified	No issues Identified	No issues Identified
VISUAL RESOURCES	No issues Identified	No issues Identified	No issues Identified	No issues Identified
WASTE MANAGEMENT	No issues Identified	No issues Identified	No issues Identified	No issues Identified
WATER RESOURCES	No issues Identified	See TN # 259671	See TN # 259672	No issues Identified
WILDFIRE	No issues Identified	No issues Identified	No issues Identified	No issues Identified
WORKER SAFETY	No issues Identified	No issues Identified	No issues Identified	No issues Identified

As the table summarizes, the CEC Staff identified the following subjects in its Issues Identification Report: Biological Resources, Cultural Resources/Tribal Cultural Resources, and Water Resources. CURE identified Air Quality, Public Health, Biological Resources, Noise, Geological Resources, and Water Resources. CBD identified Biological Resources. Biological Resources is the only subject identified by all three Parties. Water Resources was identified by two Parties. Only seven subjects are identified in total.

The Site Visit will go a long way to allaying any concerns. The project is located between a State Highway (SR-14), an active roadway (Sierra Highway), and a railroad line. Further, a U.S. Fish and Wildlife Service IPaC Report for the project concludes that, “No impacts to critical habitat or to federally-listed species are expected as a result of the Project.” The Applicant will docket the “No Effect” or similar determination from USFWS upon receipt. Although Desert Tortoise have not been observed in the area over 30 years, and project-specific protocol surveys concluded no Desert Tortoise will be impacted, a Raven Management Plan has been provided for the project.

With respect to the six remaining issues, there is also a quirk in timing that helps explain the issues identified. CURE, CBD, and CEC Staff were required to file their Issues Identification Reports on Wednesday, October 23, 2024. Thereafter, on Friday, October, 25, 2024, and Monday, October, 28, 2024, the Applicant filed its Data Responses to CEC Staff Data Requests, Set 3 and Set 4, respectively. Data Responses filed after the Parties’ Issues Identification Reports address most of the substance of issues raised in the other Parties’ filings.

Given the timing issues described above, the Applicant believes the issues identified are less a lack of information docketed and more a function of the voluminous record in this proceeding. **Attachment A** hereto provides references and citation to where information on issues raised by the Parties can be found in the record of this proceeding, focused primarily on Data Responses in Set 3 and Set 4 filed after the other Parties’ Issues Identification Reports were due.

II. THE ISSUES IDENTIFICATION REPORTS REFLECT A LIMITED NUMBER OF ISSUES FOR THIS IMPORTANT LDES PROJECT

It is not surprising that the Parties’ Issue Identification Reports identified a limited number of subjects. The technologies employed in unique combination in the WRESC’s Advanced Compressed Air Energy Storage (“A-CAES”) system are commercially proven and commercially available. Moreover, as confirmed by the discussion above and the citations in **Attachment A**, the WRESC project is well-positioned for the Commission’s thorough yet expeditious consideration.

The WRESC project’s LDES system is key to meeting California’s climate goals while maintaining reliability of the grid. The Applicant is committed to ensuring the construction and operation of the project brings benefits to California, in general, and Kern County, in particular.

Dated: October 30, 2024

Respectfully Submitted,

ELLISON SCHNEIDER HARRIS & DONLAN LLP

By  _____

Jeffery D. Harris

Samantha G. Neumyer

Jessica Melms

jdh@eslawfirm.com

sgn@eslawfirm.com

jlm@eslawfirm.com

Attorneys for Applicant

ATTACHMENT A

CITATIONS TO DATA RESPONSES

I. CALIFORNIA ENERGY COMMISSION STAFF

a. Biological Resources

Response: See Data Response Set 4, DR 88-93 (TN #: 259736). **Attachment DR92-1** presents the 2024 draft WJT Relocation Plan. One hundred percent of the WRESC project site and proposed architectural berm areas were surveyed. All areas identified for permanent or temporary impacts have been surveyed on foot except 0.65 acres. Of that 0.65 acres, those areas were not surveyed on foot due to either too severe/steep slopes or the presence of homeless encampments. These areas were similarly evaluated using binoculars and aerial photographs and the results summarized in the biological resources report and addenda. Therefore, the Applicant has provided a full baseline dataset of biological resources. Finally, the Applicant has engaged in multiple information exchanges and provided CEC Staff and Parties to the proceeding a link to the Shapefiles and KMZ files for Biological Resources and Jurisdictional Water Features to zoom in and out at the leisure on their desktop, thereby avoiding the confusion inherent in reviewing flat maps at various scales. The Applicant maintains that the timing of filing Issues Identification Statements in this proceeding may be the cause for Biological Resources being identified as an issue. See also CURE Data Request Set 1 Response (TN #: 259338).

b. Cultural and Tribal Resources

Response: See Data Response Set 1, DR 3-5; Cultural Resources Phase I (TN#: 254905); Draft Phase II Testing Plan (TN #: 256622), which all Tribal Entities provided comments on (TN #: 254905). Also note that the Applicant is working through an additional CalTrans methodology and will docket results imminently. The Applicant and Tribal Entities are planning to conduct Phase II fieldwork imminently. Therefore, CEC Staff have a full baseline data set for Cultural Resources as provided in the Phase I Report and will get refined data on the level of significance of these resources following the Phase II investigation with Tribal Entities and revision of the Phase I Report per CEC's request during Discovery. Based on the Phase II fieldwork, a Phase III may be required for curation or burial of those resources. Therefore, the Applicant has been conducting activities within its control to obtain input from Tribal Entities and CEC as lead agency in advancing this important work beyond Phase I as directed by CEC Staff.

c. Water Resources

Response: See Data Response Set 3, DR 69a-1 (TN #: 259675). See also the following attachments: **ATTACHMENT DR69-1**, UIC Applicability Letter; **ATTACHMENT DR69A-1**, Rock Characterization Results; **ATTACHMENT DR69A-2**, AVEK RO Reject Quality; **ATTACHMENT DR69B-1**, Process Flow Chart; **ATTACHMENT DR69B-2**, AVEK Water Quality Report; **ATTACHMENT DR69G-**

1, Cavern/Compensation Reservoir Water Quality; **ATTACHMENT DR69H-1**, Blind Bored Shaft Profile and Flow Rate Figures; **ATTACHMENT DR69H-2**, Condition of Rock Mass Discontinuities Table; **ATTACHMENT DR69I-1**, Groundwater Results Table; and **ATTACHMENT DR69I-2**, Boring Logs and Well Completion Details. The Applicant and CEC Staff have conducted multiple information exchanges with the Lahontan Regional Water Quality Control Board on the matter, and believes the quirk in filing timing may be the reason for Water Resources to be identified as a potential issue.

II. CALIFORNIA UNIONS FOR RELIABLE ENERGY

a. Air Quality

Response: See *Eastern Kern Air Pollution Control District Notice of Final Determination of Compliance (FDOC)* (TN #: 256372).

b. Public Health

Response: See SAFC Section 5.17.2.3. Also note that the Applicant describes the Workforce Environmental Awareness Plan (WEAP). The WEAP is a common training used to address worksite specific issues that may be safety concerns, or site specific environmental concerns. As such, a WEAP is common on projects in Kern County. Furthermore, an important component of any WEAP is the coverage of worksite concerns as they relate to Valley Fever.

c. Biological Resources

Response: See Data Response Set 4, DR 88-93 (TN #: 259736). **Attachment DR92-1** presents the 2024 draft WJT Relocation Plan. The Applicant also held two information sessions and provided data in Shapefiles via Kiteworks and KMZ regarding impacts to the Western Joshua Tree, its habitat, and Joshua Tree Woodlands. See the standard transmission line protocols included in BRMMP, SAFC, Section 5.2.4 (TN #: 254806). See also Responses to CURE's Data Requests Set 2, DR 96-97 (TN #: 250418).

d. Noise

Response: See Data Response Set 4, DR 97-101 (TN #: 259736). See also **ATTACHMENT DR98-1**, Cavern Top Heading Vibrations Map Book; **ATTACHMENT DR98-2**, Cavern Bench Blast Vibrations Map Book; **ATTACHMENT DR98-3**, Shaft Sinking Vibrations Map Book; **ATTACHMENT DR98-4**, Shaft Air Blast Overpressure Sound Map Book.

e. Water Resources

Response: See Data Responses to CURE Set 1, DR 103 and 104 (TN #: 259338). See also **ATTACHMENT DR103-1**, Water Injection Volume and Water Level Monitoring Data; and **ATTACHMENT DR103-2**, Acoustic Televiewer Data. See Data Response Set 3, DR 69a-1 (TN #: 259675). See also the following attachments: **ATTACHMENT DR69-1**, UIC Applicability Letter; **ATTACHMENT DR69A-1**, Rock

Characterization Results; **ATTACHMENT DR69A-2**, AVEK RO Reject Quality; **ATTACHMENT DR69B-1**, Process Flow Chart; **ATTACHMENT DR69B-2**, AVEK Water Quality Report; **ATTACHMENT DR69G-1**, Cavern/Compensation Reservoir Water Quality; **ATTACHMENT DR69H-1**, Blind Bored Shaft Profile and Flow Rate Figures; **ATTACHMENT DR69H-2**, Condition of Rock Mass Discontinuities Table; **ATTACHMENT DR69I-1**, Groundwater Results Table; and **ATTACHMENT DR69I-2**, Boring Logs and Well Completion Details.

III. CENTER FOR BIOLOGICAL DIVERSITY

a. *Impacts to Western Joshua Tree, its Habitat, and Joshua Tree Woodlands*

Response: See Data Response Set 4, DR 88-93 (TN #: 259736). **Attachment DR92-1** presents the 2024 draft WJT Relocation Plan. The Applicant also held two information sessions and provided data in Shapefiles via Kiteworks and KMZ regarding impacts to the Western Joshua Tree, its habitat, and Joshua Tree Woodlands.

b. *Biological Resource Surveys*

i. *Western Burrowing Owl:*

Response: See Data Response Set 4, Data Responses DR 81-82 (TN #: 259736). See also **ATTACHMENT DR82-1**, Special Status Plants and Burrowing Owl Figures. Note the references to 30 meters are in error; they should have read 10 meters or approximately 30 feet. See also **Attachment DR82-1, Figures DR82-A and DR82-B**.

ii. *Desert Tortoise*

Response: See Data Response Set 4, Data Responses DR 81-82 (TN #: 259736). See also **ATTACHMENT DR82-1**, Special Status Plants and Burrowing Owl Figures. Note that Desert Tortoise have not been observed in the area in over 30 years. Further, a USFWS IPaC Report for the project concludes that, “No impacts to critical habitat or to federally-listed species are expected as a result of the Project.” The Applicant will docket the “No Effect” or similar determination from USFWS upon receipt. Although Desert Tortoise have not been observed in the area over 30 years, and project-specific protocol surveys concluded no Desert Tortoise will be impacted, a Raven Management Plan has been provided for the project.

iii. *Mohave Ground Squirrel*

Response: See Data Response Set 4, Data Responses DR 81-82 (TN #: 259736). The Applicant surveyed the project site and surrounding areas despite the low likelihood of Mohave Ground Squirrel occupying the site. While Mohave Ground Squirrel are not likely to be found in this area, the Applicant conducted protocol-level surveys anyway. The Applicant maintains that a loss of a trap or two will not change the result of negative findings.

iv. Crotch's Bumble Bee

Response: See Data Response Set 4, Data Responses DR 94-95 (TN #: 259736). See also **ATTACHMENT DR95-1**, Incidental Take Permit Application Materials (Conceptual). The surveys covered the entire survey area by foot except for 0.65 acres of steep slopes and homeless encampments, which were surveyed by binoculars.

v. Swainson's Hawk

Response: See Data Response Set 4, Data Responses DR 81-82 (TN #: 259736). See also **ATTACHMENT DR82-1**, Special Status Plants and Burrowing Owl Figures. The entire project area and an additional five-mile buffer beyond the site (which is not required) has been properly surveyed for Swainson's Hawks. Further, these surveys have occurred for the last three consecutive years allowing the Applicant an understanding of where the Swainson's Hawks nest near the site. Accordingly, the Applicant is aware that nests will not be impacted.

vi. Other Special Status Species

Response: The Applicant is aware of the need to protect additional special status species and will follow all applicable Conditions of Certification which adequately protect these species.

c. Impact of Surface Reservoir and Retention Ponds on Wildlife

Response: See Data Response Set 3, DR 69a-1 (TN #: 259675). See also the following attachments: **ATTACHMENT DR69-1**, UIC Applicability Letter; **ATTACHMENT DR69A-1**, Rock Characterization Results; **ATTACHMENT DR69A-2**, AVEK RO Reject Quality; **ATTACHMENT DR69B-1**, Process Flow Chart; **ATTACHMENT DR69B-2**, AVEK Water Quality Report; **ATTACHMENT DR69G-1**, Cavern/Compensation Reservoir Water Quality; **ATTACHMENT DR69H-1**, Blind Bored Shaft Profile and Flow Rate Figures; **ATTACHMENT DR69H-2**, Condition of Rock Mass Discontinuities Table; **ATTACHMENT DR69I-1**, Groundwater Results Table; and **ATTACHMENT DR69I-2**, Boring Logs and Well Completion Details. The details for the interlocking floating cover on the reservoir has not been finalized but it reduces evaporative losses and prevents being an attractive nuisance for wildlife such as ravens. Further, a Raven Management Plan has been provided for the project.