

DOCKETED	
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Document Title:	Follow-up Requests on Biological and Water Resources for Willow Rock Energy Storage Center (21-AFC-02)
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Filer:	Kaycee Chang
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Outlook

Follow-up Requests on Biological and Water Resources for Willow Rock Energy Storage Center (21-AFC-02)

From Chang, Kaycee@Energy <kaycee.chang@energy.ca.gov>

Date Wed 2/26/2025 8:00 AM

To Laurel Lees <laurel.lees@hydrostor.ca>; Curt Hildebrand <curt.hildebrand@hydrostor.ca>

Dear Curt and Laurel,

We are requesting additional information needed for a complete staff analysis of the Willow Rock Energy Storage Center (WRESC). The information related to Water Resources was previously requested in CEC's Data Requests Set 6 (TN 261072), but additional details are needed. An updated request related to Biological Resources is being made because the request for incidental take authorization of two species recently was confirmed by the applicant, and additional information is needed to supplement prior responses from Data Requests Set 4 (TN 259326).

The Committee's Second Revised Scheduling Order provides a 15-day timeframe for the applicant to file the requested information to the docket, making the due date March 12, 2025. If you are unable to provide the information requested, need additional time, or object to providing the requested information, please email me within 10 days of receipt of this email.

If you have any questions, please email me.

BIOLOGICAL RESOURCES

BACKGROUND

On January 27, 2025, staff inquired if the applicant wanted to seek incidental take authorization due to the high likelihood of occurrence of burrowing owl (*Athene cunicularia*) and Crotch's bumble bee (*Bombus crotchii*) at the site during project construction. Information was previously provided for Crotch's bumble bee as part of Data Request Response 95 (Data Requests Set 4; TN 259326); however, the response did not provide adequate information as would be included in an incidental take permit (ITP) application and instead provided a conceptual plan for the species.

The project area has the potential to support burrowing owl and Crotch's bumble bee, two species recently approved for candidacy for listing under the California Endangered Species Act (CESA) by the California Fish and Game Commission. Under CESA, a candidate species for which notice has been given under Fish and Game Code, section 2074.4 is afforded the same protections as a threatened or endangered species (Fish & G. Code, § 2085), including the prohibition on take without appropriate authorization. These species were documented by the applicant during project related surveys. Crotch's bumble bee was detected flying adjacent to the site and burrowing owl burrows were detected south of the site.

CEC staff was notified via email on January 29, 2025, that the applicant would be requesting take coverage for both species.

The application does not have necessary information for staff to prepare the appropriate analysis in coordination with California Department of Fish and Wildlife (CDFW). Staff must have additional information that would

typically be included in the form of an ITP application to CDFW.

Staff also reviewed Attachment DR123-1 Supplemental Preliminary Delineation of Jurisdictional Waters dated January 2025. Staff does not concur with the applicant's conclusions that many of the small drainage features that were included in the revised report would be non-jurisdictional and requires a better justification for the exclusion.

DATA REQUEST

127. Please provide all information that would be required in an ITP application for CESA-listed or candidate species, specifically Crotch's bumble bee and burrowing owl, including an impacts analysis and proposed mitigation measures (Cal. Code of Regs., tit.14, § 783.2). Staff is requesting the applicant provide the following:

- a. A species related analysis including covered species habitat impacts;
- b. An analysis of whether and to what extent project activities could result in the taking of the species covered by the CEC license;
- c. An analysis of whether the issuance of the incidental take authorization for Crotch's bumble bee and burrowing owl would jeopardize the continued existence of a species including an analysis of the species capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of: 1.) known population trends, 2.) known threats to the species, and 3.) reasonably foreseeable impacts on the species from other related projects and activities;
- d. The proposed measures to minimize and fully mitigate the impacts for the proposed taking of Crotch's bumble bee and burrowing owl;
- e. A proposed plan to monitor compliance with the minimization and mitigation measures and the effectiveness of the measures for both species; and
- f. A description of the funding sources and the level of funding available for the implementation of the minimization and mitigation measures.

Information regarding the project description, schedule, and location has already been provided.

Information on what is required in a typical ITP application can be located here:

<https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits>

128. For non-jurisdictional drainages, provide the same level of detail and rationale as features identified as jurisdictional. Provide shape files so features can be viewed on a map and inspected in the field.

- a. Include any evidence that the length of the feature would exclude the drainage from consideration by the CDFW or Lahontan Regional Water Quality Control Board as non-jurisdictional.

WATER RESOURCES

BACKGROUND

Lahontan Regional Water Quality Control Board (Water Board) staff provided the CEC with a request for information for the WRESC on December 20, 2024. CEC staff then submitted the Water Board's information request to the applicant on January 13, 2025, under CEC Data Request Set 6 (TN 261072). The applicant submitted its responses to CEC staff's data request on January 31, 2025 (TNs 261500, 261511, 261515, and 261516). Water Board staff reviewed the applicant's responses and determined they are incomplete or insufficient, as detailed below. The information Water Board staff requested on December 20, 2024, is pertinent to understanding and evaluating the potential impacts the project may pose to water quality and in identifying appropriate waste discharge and monitoring requirements. On February 19, 2025, the Lahontan RWQCB provided a letter with their determination that the applicant's response is incomplete or insufficient and outlined outstanding information needed for review. This letter was filed to the docket on February 24, 2025 (TN 261932).

DATA REQUEST

129. As a follow-up to Data Request 69 (Data Requests Set 3; TN 259256) and Data Request 121 (Data Requests Set 6; TN 261072), please provide all information requested by the Water Board, including:

- a. Complete information on the geology, hydrogeology, and groundwater quality of the project site.
- b. Complete characterization of waste, including sample dates or when the data was generated, laboratory analytical methods and reports, or full constituent analysis, and manufactured specifications for the chemical additives for the closed loop system.
- c. Detailed surface impoundment (Waste Management Unit or WMU) design plan (engineered drawings), including an Action Leakage Rate (ALR), the minimal and maximum amount the primary WMU liner may leak, and details regarding the leachate collection and removal system design, capacity, and operation that justify the ALR.
- d. Description of the proposed surface impoundment liner system, including specifications for high-density polyethylene (HDPE) liner thicknesses, minimum compaction specification for the subgrade liner, and the hydraulic conductivity of each liner component.
- e. Construction Quality Assurance (CQA) plan to ensure proper construction of the WMU.
- f. Information on a detection monitoring program (DMP), including the installation of water quality monitoring systems (unsaturated zone monitoring, e.g., pan lysimeter and monitoring wells), appropriate for detecting at the earliest possible time, a release from the WMU; record keeping, the establishment of background water quality values, identification of monitoring parameters (constituents), monitoring frequency, and data analysis (non-statistical and statistical). The DMP should include a proposal for the establishment of Water Quality Protection Standards (WQPS) or background water quality values. WQPS proposals typically include the identification of the groundwater monitoring wells that will be used to collect groundwater samples for laboratory analysis, including the site upgradient of background monitoring well, and data analysis methodologies (i.e., statistics that will be used to calculate background water quality values, then used to compare future groundwater laboratory analytical results against).
- g. A work plan considering site specific conditions, proposing the installation of unsaturated zone and groundwater monitoring well points, a site map identifying the locations of monitoring points, drilling and well development methods, proposed monitoring well depths and well construction specifications, and sampling and analysis procedures and methodologies.
- h. An updated operations and maintenance plan that includes, but is not limited to, a description of day-to-day operations in relation to the WMU, routine visual observations of the WMU and associated infrastructure, WMU non-operable notifying procedures, procedures for system shutdowns and repairs, and frequency and procedures for sludge removal (WMU cleanout) activities.
- i. Information for the closure/post-closure plan, such as the disposal of the liner system material and closure costs.
- j. A known or reasonably foreseeable release plan (KRFRP) that demonstrates financial responsibility for initiating and completing corrective action for all known and reasonably foreseeable releases from the WMU.
- k. A complete and thorough delineation report that documents the presence of surface water features (ephemeral, intermittent, and/or perennial) in and adjacent to the project area.

BACKGROUND

If the berm around the compensation reservoir is or will be in excess of 6 feet in height, measured from the original grade, and would be storing more than 50 acre-feet of water, it would meet the definition of a jurisdictional dam pursuant to Water Code sections 6002 and 6003, which would require approval by the Division of Safety of Dams (DSOD) of California Department of Water Resources (DWR). However, the issuance of a certificate by CEC shall be in lieu of any permit, certificate or similar document required by any state, local or regional agency under the Warren Alquist Act, including approval for jurisdictional dams. CEC staff is coordinating with DSOD on whether the compensation reservoir meets applicable requirements for a jurisdictional dam. The applicant indicated in a previous communication that the berm would be outside the jurisdiction of the DSOD.

As part of Data Requests Set 6, staff requested information to resolve this discrepancy or all details about the berm and the compensation reservoir necessary for DSOD approval as a jurisdictional dam. On January 27, 2025, as part of the Data Request Responses (TN 261314), the applicant indicated they are “currently working to obtain a formal jurisdictional determination from DSOD and [are] working with CEC Staff to integrate the processes into the timeframe set forth in the Scheduling Order.”

DATA REQUEST

130. As a follow-up to Data Request 122 (Data Requests Set 6; TN 261072), please continue providing written updates on obtaining a formal jurisdictional dam determination from DSOD.

Thank you,
Kaycee

Kaycee Chang (she, her, hers)

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