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Docket Number:	21-AFC-02
Project Title:	Willow Rock Energy Storage Center
TN #:	262357
Document Title:	WILLOW ROCK ENERGY STORAGE CENTER SUPPLEMENTAL APPLICATION FOR CERTIFICATION STATUS REPORT NO 8
Description:	WILLOW ROCK ENERGY STORAGE CENTER SUPPLEMENTAL APPLICATION FOR CERTIFICATION STATUS REPORT NO. 8
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Submission Date:	3/25/2025 4:56:31 PM
Docketed Date:	3/25/2025

**STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission**

In the Matter of:

Application for Certification of the
Willow Rock Energy Storage Center

Docket No. 21-AFC-02

**WILLOW ROCK ENERGY STORAGE CENTER
SUPPLEMENTAL APPLICATION FOR CERTIFICATION
STATUS REPORT NO. 8**

Pursuant to the *Order Granting In Part and Denying In Part Applicant’s Motion to Amend Revised Scheduling Order* issued on December 11, 2024 (“Committee Order”),¹ as revised,² GEM A-CAES LLC (the “Applicant”) submits this Supplemental Application for Certification Status Report No. 8 to inform the Committee of the progress of the Application for Certification proceeding for the Willow Rock Energy Storage Center (the “WRESC”).

I. SCHEDULE AND PRELIMINARY STAFF ASSESSMENT

A brief summary of the schedule in this proceeding is instructive. On December 3, 2024, the Applicant filed a motion to amend the Revised Scheduling Order for the WRESC.³ The Applicant’s motion highlighted how critical schedule is to the WRESC, including the need for the project to start construction in 2025 to meet the California Public Utilities Commission’s Mid-Term Reliability procurement mandates, and how permitting delays can adversely affect efforts to contract capacity from the project.⁴ The motion also described the importance of the completion of federal National Environmental Policy Act (“NEPA”) review, and the impact of the CEC’s permitting process on the ability to qualify for and receive federal clean energy incentives.⁵

The Committee Order issued on December 11, 2024 recognized the importance of schedule in this proceeding and specifically ordered a “modest acceleration of the schedule”⁶ in response to the Applicant’s motion. The Committee Order set “due dates for deliverables [and] key events”, including the deadline for the last day for any party, including CEC Staff, to request information in a data request, January 13, 2025.⁷ Notably, this is distinguishable from the Commission’s AB205 process. Close of Discovery is an important milestone to provide a discrete window for information requests so the proceeding can advance to the Commission’s involvement. It is a clear signal for pencil’s down on the data requests and the preliminary information Staff requires to complete their final staff assessment and testimony and for the Commission to engage. Significantly, the Committee

¹ TN #: 260601.

² TN #: 260752.

³ TN #: 260431.

⁴ TN #: 260431.

⁵ TN #: 260431.

⁶ TN #: 260601, p. 3.

⁷ TN #: 260601, p. 3;

Order did not revise the date for the close of Discovery in this proceeding. The close of Discovery on January 13, 2025 was set in the revised scheduling order on September 9, 2024,⁸ and remained unchanged by the Committee Order.⁹

Other deliverables subject to a due date in the Committee Order included the Preliminary Staff Assessment.¹⁰ The Committee Order ordered publication of the Preliminary Staff Assessment on March 13, 2025, and the Final Staff Assessment on May 28, 2025.¹¹ On March 13, 2025, CEC Staff docketed a “Partial Preliminary Staff Assessment.”¹² The vast majority of the Preliminary Staff Assessment sections were omitted in their entirety without any explanation as to why partial or complete analysis for the omitted sections were not provided particularly given CEC Staff’s January Status Report indicating that the Preliminary Staff Assessment was on track for publication on March 13, 2025. It is unclear when the complete Preliminary Staff Assessment will be docketed for public review and comment.

It is critical that the Committee enforce the provisions of the Scheduling Order and require immediate publication of the Preliminary Staff Assessment no later than March 31, 2025.

II. POST-DISCOVERY INFORMATION REQUESTS AND APPLICANT’S RESPONSES

Notwithstanding the close of Discovery Ordered on January 13, 2025, CEC Staff has continued to promulgate additional requests for information. It is not clear why these requests could not have been made on or before January 13, 2025, consistent with the Committee Order. However, the Applicant has worked cooperatively and quickly to provide CEC Staff with the information to facilitate continued advancement of this proceeding. This section summarizes the post-Discovery Information Requests made and the Applicant’s responses docketed in response to those requests.

February 24, 2025: More than a month after the close of Discovery, the Staff docketed the *Lahontan Regional Water Quality Control Board Comments on Applicant's Response to WR CEC Data Request Set 6 Attachment DR 121-1*, dated February 19, 2025.¹³ On February 26, 2025, the Applicant filed Willow Rock Jurisdictional Waters Delineation Report Text, including appendices.¹⁴

February 26, 2025: Staff requested information regarding the Crotch’s Bumble Bee and new candidate species, Western Burrowing Owl; non-jurisdictional waters; RWQCB inquiries; and DSOD.¹⁵ On March 14, 2025, the Applicant filed the Willow Rock Incidental Take Permit, related to Biological Resources in response to informal data requests received from CEC Staff on March 10, 2025.¹⁶

⁸ TN #: 259084.

⁹ TN #: 260752.

¹⁰ TN#: 260601, p. 6.

¹¹ TN#: 260601, p. 6.

¹² TN#: 262184.

¹³ TN #: 261932.

¹⁴ TN#s: 261991-261995.

¹⁵ TN#: 262088.

¹⁶ TN#: 262196.

March 10, 2025: CEC Staff requested information on the construction drill cuttings pond.¹⁷ This is not a new project feature as it is described in the SAFC.¹⁸ On March 13, 2025, the Applicant proactively removed the evaporation pond to avoid and minimize potential impacts that were discussed during post-Discovery conversations with Staff and the Lahontan Regional Water Quality Control Board.¹⁹ The Applicant filed an email to that effect in response to Staff's request to do so. On March 21, 2025, the Applicant filed the Willow Rock Notice of Intent to Comply with State Water Resources Control Board Water Quality Order No. 2003-003-DWQ Statewide General Waste Discharge Requirements for Discharges to Land with a Low Threat to Water Quality, related to a potential temporary drill cuttings pond for shaft construction.²⁰

March 11, 2025: CEC Staff requested information regarding DSOD and the evaporation pond.²¹ As noted in Applicant's March 13, 2025 response, potential DSOD jurisdiction is discussed in the Supplemental AFC filing in March 2024, which was deemed Data Adequate in July 2024. (See, for example, Supplemental Application for Certification (AFC), pp. 2-17, 5.4-8, and 5.4-16.)²² In this same March 13, 2025, response, the Applicant refined the project design to remove the evaporation pond.²³

March 12, 2025: CEC Staff docketed an email dated January 13, 2025 from DSOD to CEC Staff with a list of typical DSOD applicant's "Submittals" and "Notes on [DSOD] Jurisdiction."²⁴ This docketing, two months after the close of the Discovery period and the day before a Preliminary Staff Assessment was ordered to be published, was the first time the Applicant saw this communication from DSOD.

March 13, 2025 CEC Staff requested information for a Lake and Streambed Alteration Agreement and discussed the Phase II Cultural Resources Report. Staff has since clarified that the Lake and Streambed Alteration Agreement is not required, and on March 17, 2025, the Applicant filed the Confidential Phase II Cultural Resources Testing and Evaluation Report.²⁵

March 24, 2025: Given removal of the evaporation pond, in response to Staff's request, the Applicant provided Air Quality calculations associated with the most conservative / worst case scenario of hauling 250,000 gallons of water offsite to a facility 27 miles away in Palmdale 13 times per year using Heavy Duty Diesel vehicles.²⁶

III. SUMMARY OF THE APPLICANT'S POST-DISCOVERY RESPONSES

As described above in Section II above, the Applicant made several filings in response to post-Discovery information requests from CEC Staff in three subject areas: Water Resources,

¹⁷ TN#: 262149.

¹⁸ For example, see SAFC Volume 1, Part A, TN#: 254806, pp. 2-17 through 2-18.

¹⁹ TN #: 262180.

²⁰ TN #: 262295.

²¹ TN #: 262180.

²² TN #: 262180.

²³ TN #: 262180

²⁴ TN #: 262156.

²⁵ TN#: 262220.

²⁶ TN #: 262349.

Biological Resources, and Cultural Resources. Notably, the information requested should not have resulted in substantial delays to publication of the Preliminary Staff Assessment. Further, mitigation measures are not changes to the Project Description.

For example, removal of the evaporation pond did not result in any new ground disturbance from the project. Any residual process water that cannot be reintroduced into the process will be hauled offsite to an appropriate treatment facility in compliance with all applicable laws, ordinances, regulations, and standards. The Applicant has clarified that removal of the evaporation pond could result in zero to 250,000 gallons of process water to be managed. Although unlikely, for purposes of the environmental analysis the Applicant provided CEC Staff with information regarding the most conservative scenario for process water management, which is hauling the maximum volume of 250,000 gallons of residual process water offsite to a treatment facility. The treatment facility would be located approximately 27 miles away in Palmdale, California, and would result in approximately 13 trips per year using Heavy Duty Diesel vehicles. This yields *de minimis* emissions and truck trips to that already analyzed on behalf of the project. For example, this could generate up to an additional 2.4 pounds of nitrogen oxides emissions per year, which is within the accuracy-level of the Air Quality analysis and does not necessitate revisions to the Air Quality modeling. Further, this conservative estimate of an additional 13 truck trips annually (or approximately 1 additional truck trip per month) would not impact any traffic operations on the surrounding roadway network and does not necessitate revisions to the Transportation analysis. This information should not delay immediate issuance of the Preliminary Staff Assessment.

CEC Staff and Lahontan Regional Water Quality Control Board also requested that the Applicant file a Notice of Intent to Comply with *State Water Resources Control Board Water Quality Order No. 2003-003-DWQ Statewide General Waste Discharge Requirements for Discharges to Land with a Low Threat to Water Quality* for the temporary drill cuttings pond proposed for shaft construction. This Notice of Intent is typically prepared later in the engineering design process and filed 90 days in advance of construction activities, not in advance of a final decision let alone in advance of environmental impact assessments. Further, this drill cuttings pond is temporary in nature and does not discharge offsite, so the disturbances would be incidental and insignificant. The drill cuttings pond has always been a part of the project description as proposed in the Supplemental Application for Certification over twelve months ago, yet there was no Data Request for a Notice of Intent during Data Adequacy or Discovery from any Party to the proceeding or the Lahontan Regional Water Quality Control Board itself. Finally, the level of detail required in a Notice of Intent application and its review by Lahontan Regional Water Quality Control Board as a responsible agency is simply not needed in advance of a Preliminary Staff Assessment or even a Final Staff Assessment, and can be conducted post-certification. This information should not delay immediate issuance of the Preliminary Staff Assessment.

The Applicant also continues to support CEC and the Department of Water Resources (“DWR”) Division of Safety of Dams (“DSOD”) in coordinating Conditions of Certification into the CEC’s permitting process that would provide for DSOD engineering review of the hydrostatically compensating surface reservoir as part of post-Certification construction compliance as DSOD has deemed the hydrostatically compensating surface reservoir to be DSOD-jurisdictional. Compliance with DSOD’s engineering requirements is appropriately treated through a condition of certification. This information should not delay immediate issuance of the Preliminary Staff Assessment.

Similar to the subject area of Water Resources, CEC Staff have requested additional information on Biological Resources after the close of Discovery. Post-Discovery, CEC Staff asked for additional information on the Crotch's Bumble Bee ITP application and another ITP application for Burrowing Owl, which was listed in the California Endangered Species Act in October 2024. While protocol surveys for Burrowing Owl indicated no presence onsite, the Applicant provided a formal ITP application for the species as another conservative effort on March 14, 2025. The ITP application does not provide any information that is significantly different from that already provided by the Applicant relating to burrowing owl, and the requirement to obtain an ITP could be included as a condition of certification. This information should not delay immediate issuance of the Preliminary Staff Assessment.

Regarding Cultural Resources, the Applicant provided the Cultural Resources Survey Report with the Supplemental Application for Certification in March 2024. The Applicant provided the Cultural Resources Phase II Testing Plan during Discovery including multiple revisions based on CEC Staff and Tribal Entities' input. The Applicant completed Phase II Testing with the tribal entities in January 2025 and provided a technical memo on preliminary fieldwork findings to CEC Staff in the interim of a report. CEC Staff indicated there was enough information to make assumptions in the Preliminary Staff Assessment in the interim of receiving a report; however, the Partial Preliminary Staff Assessment excluded the entirety of the Cultural Resources section. As planned and communicated to CEC Staff, the Applicant docketed the Phase II Cultural Resources Excavation and Testing Report confidentially on March 17, 2025. This information should not delay immediate issuance of the Preliminary Staff Assessment.

In all other topic areas, the Applicant has provided complete information as evident by the acceptance of the SAFC as data adequate, limited data requests during Discovery and the lack of any further follow-on data requests in these other topic areas prior to the close of Discovery. As previously stated, these sections comprise the vast majority of the Preliminary Staff Assessment sections that were omitted in their entirety without any explanation as to why partial or complete analysis for the omitted sections is not possible. Therefore, all other sections of the Preliminary Staff Assessment should be issued immediately without further delay.

IV. COMMUNITY ENGAGEMENT AND OUTREACH

The Applicant also has the following updates to report:

- Continued landowner engagement to finalize siting of the transmission line preferred pathway including collaboration with Southern California Edison, Los Angeles Department of Water and Power, California Department of Transportation, and Bureau of Land Management.
- Continued engagement with the California Public Utilities Commission on the Mid-Term Reliability and long-duration energy storage ("LDES") procurement requirements decided as part of the Integrated Resource Planning proceeding.
- Continued engagement with the Governor's Office of Business and Economic Development and CEC Staff to manage the WRESC permitting process to the Committee's Scheduling Order in anticipation of a CEC Final Decision in 2025.

- Continued local charitable giving and community engagement including participation in the Antelope Valley Economic Development and Growth Enterprise Spring Business Summit.

CONCLUSION

The Applicant continues to meet with Kern County, Lahontan Regional Water Quality Control Board, CEC, the Governor's Office, and other local, state, and federal stakeholders to discuss the project, the U.S. Department of Energy Loan Programs Office conditional commitment for a loan guarantee of up to \$1.76 billion, and eligibility for Inflation Reduction Act Investment Tax Credit benefits. It remains imperative that the CEC issue a Final Decision in 2025.

Given the substantial level of detailed information provided by the Applicant to date, CEC Staff has more than enough information to immediately publish the complete Preliminary Staff Assessment for the WRESC by March 31, 2025. It is critical that public review of the Preliminary Staff Assessment commence. The Preliminary Staff Assessment is just that, preliminary, and additional information and analysis can be incorporated as needed through many remaining milestones in this proceeding, including the Final Staff Assessment.

The Applicant looks forward to continued collaboration with CEC Staff and other Parties on the certification and initiation of construction of this important long duration energy storage project in 2025, which is key to meeting California's climate and energy goals while maintaining reliability of the grid.

Dated: March 26, 2025

Respectfully Submitted,

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