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STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

Willow Rock Energy Storage Center

Docket No.: 21-AFC-02

**Staff's Motion Seeking a New
Scheduling Order**

I. INTRODUCTION

On April 2, 2025, the Willow Rock Energy Storage Center Committee (Committee) issued a Third Revised Scheduling Order directing California Energy Commission (CEC) staff to publish the Preliminary Staff Assessment (PSA) on April 16, 2025. Staff was in the process of filing this motion when the Committee filed its order.

The CEC staff brings this motion under California Code of Regulations, title 20, section 1211.5, seeking a revised scheduling order for the Willow Rock Energy Storage Center (WRESC) project. CEC staff published a partial Preliminary Staff Assessment (PSA) on March 13, 2025, because crucial information was still needed from the applicant for CEC staff to complete its analysis. For the reasons set forth, CEC staff needs additional time beyond April 16, 2025, to finalize the PSA and anticipates filing a complete PSA on or before April 30, 2025, and proposes a new schedule in Attachment A.

II. BACKGROUND

On December 11, 2024, the Willow Rock Energy Storage Center Committee (Committee) issued a revised scheduling order, which set March 13, 2025, as the due date for the PSA (TN 260752). As reported in its January, February, and March monthly status reports, CEC staff has coordinated with other agencies to meet the timeframes established in the scheduling order, but the time taken to receive vital information impacted CEC staff's ability to fully complete the PSA (TNs 261285, 262000, 262429).

On March 13, 2025, CEC staff filed a partial PSA (TN 262184). The partial PSA was CEC staff's analysis to date, based on site visits, data requests and responses received, additional staff research, consultation with other agencies, and relevant information obtained during public meetings. However, as of the March 13, 2025, PSA deadline, CEC staff had not received numerous critical pieces of information needed to complete the PSA, including information needed for the evaporation pond,

compensation reservoir, and cultural and tribal cultural resources. Following additional information and materials subsequently submitted by the applicant to project docket, CEC staff anticipates filing a complete PSA on or before April 30, 2025.

III. DISCUSSION

Under California Code of Regulations, title 20, section 1203, the authority of the Presiding Member to regulate the proceeding includes the authority to modify any deadlines set by the Committee. Modification of the Order is necessary to reflect the additional time CEC staff needs to complete its analysis for the PSA. Despite staff's timely and diligent issuance of data requests, and ongoing coordination with other government agencies, staff had to request additional information from the applicant to clarify or supplement prior data requests. This information is necessary for thorough evaluation of the impacts of the project.

For example, the Lahontan Regional Water Quality Control Board (Lahontan RWQCB) provided the CEC with a request for information for the WRESC on December 20, 2024, as a follow up to Data Request 69 filed on September 23, 2024 (Data Requests Set 3, TN 259256; see *also* additional communications from Lahontan RWQCB in TN 257954, TN 258495). The information Lahontan RWQCB requested 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. CEC staff submitted Lahontan RWQCB's follow-up information request to the applicant on January 13, 2025, under CEC Data Request Set 6 (TN 261072). On January 31, 2025, the applicant submitted its data request response to CEC staff's data request (TNs 261500, 261511, 261515, and 261516), four days after the data responses were due.

On February 19, 2025, the Lahontan RWQCB determined that the applicant's response was incomplete or insufficient, which was promptly provided to the applicant on February 19, 2025, and was filed to the docket on February 24, 2025 (TN 261932). Instead of submitting the requested information, in a meeting on March 6, 2025, with the Lahontan RWQCB, the applicant, and CEC staff, the applicant shared that they are removing the evaporation pond from the project and would be revising how wastewater would be managed. CEC staff requested project information be provided in writing so that CEC staff could complete its assessment and update the project description. The applicant provided project changes to CEC staff in a series of emails, with the last communication received on March 19, 2025, six days after the PSA was due. CEC staff is evaluating proposed project changes to determine if there are consequential impacts, which includes reviewing information evaluated in numerous sections of the PSA. A comprehensive assessment of these interdependencies was not feasible until the missing information was provided by the applicant.

Similarly, more information was needed from the applicant on cultural and tribal cultural resources. In CEC staff's Data Adequacy Recommendation (Incomplete) (TN 255890,

April 23, 2024), staff requested the applicant “Provide CEQA significance evaluations, supported by testing plans and test excavations, of all archaeological resources in the project’s direct impact areas” and “Submit a report of significance evaluations suitable for public disclosure and a detailed report under request for confidential filing.” CEC staff and tribal representatives need the analyses and results of these excavations to inform tribal consultation and incorporate the results into the PSA.

The applicant filed its Cultural Resources Phase II Testing Plan on June 17, 2024, stating that it intended to initiate test excavations in September 2024 (TN 257813, page ii). With receipt of the Testing Plan and its schedule for completing the work detailed therein, CEC staff determined that the WRESC supplemental application for certification was complete for the cultural and tribal cultural resources topic (TN 257763). CEC staff filed Data Request Set 1 for the applicant concerning the test excavation methods and research questions in the Testing Plan (TN 258088). The applicant responded to Data Request Set 1 on August 23, 2024 (TN 258681). The applicant commenced test excavations on November 18, 2024, and finished test excavations in February 2025. The applicant informed staff on February 24, 2025, that the Phase II Cultural Resources Report would be submitted by March 18, 2025. The applicant confidentially filed the report on March 17, 2025, four days after the PSA was due. The analysis of alternatives to the project in the PSA will consider a reduced capacity alternative, which could have a smaller surface footprint. The analysis will discuss whether any of the project impacts, including to cultural and tribal cultural resources, could be substantially lessened or avoided by the alternatives.

More information was also needed from the applicant to determine whether the compensation reservoir would meet the standards for a jurisdictional dam in the Water Code and regulations. In Data Request Set 3 filed on December 23, 2022, CEC staff identified that applicant’s initial project design may require compliance with requirements in the Water Code, and coordination with California Department of Water Resources, Division of Safety of Dams (DSOD) (TN 248218, DR 153, 154). According to the supplemental application filed on March 1, 2024, the applicant redesigned the reservoir to avoid being subject to DSOD requirements (TN 254806).

On December 6, 2024, the applicant’s counsel called CEC staff counsel, to inform CEC that DSOD determined the compensation reservoir is subject to DSOD dam safety standards. CEC staff counsel requested DSOD contacts and copies of correspondence and information submitted to DSOD.

On January 9, 2025, the applicant informed CEC staff that they had submitted a request for a non-jurisdictional determination of the proposed surface water reservoir to DSOD over three months earlier, on or about September 25, 2024. DSOD informed the applicant that the reservoir is jurisdictional as it is currently designed, which means it must meet safety and design standards in the Water Code. CEC staff met with DSOD staff on January 13, 2025, and discussed Water Code requirements and DSOD’s process for substantive review (TN 262156). DSOD also identified that potential

concerns at the project location could include seismic loading and foundation conditions for an embankment and its appurtenances. As part of Data Request Set 6, staff requested information to resolve the jurisdictional issue or all details about the berm and the compensation reservoir necessary for DSOD review as a jurisdictional dam. CEC staff must evaluate all foreseeable significant impacts of the compensation reservoir.

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.” On January 31, 2025, staff met with DSOD and the applicant to discuss whether the project's compensation reservoir meets the requirements of a jurisdictional dam under Water Code sections 6002 and 6003. During the meeting, DSOD staff shared that at a minimum, 30 percent design plans and concept is needed for them to conduct a cursory review, identify missing information and design concerns, and determine if the reservoir would be able to meet design and safety requirements in the Water Code. Significant design changes may impact staff's environmental analysis.

At the time, the applicant indicated that they were exploring engineering designs that would exempt them from the scope of DSOD. CEC staff requested updates from the applicant on obtaining a formal DSOD jurisdictional dam determination (TN 262088). On March 14, 2025 — the day after the PSA was due — in a call with CEC staff, the applicant stated they had decided to proceed with their original design, meaning the reservoir would need to meet safety and design requirements in the Water Code. The applicant also shared that no additional meetings have been conducted with DSOD. CEC staff and DSOD have not received information demonstrating compliance with the jurisdictional dam requirements in the Water Code and regulations. Further requests for necessary information were provided to the applicant on April 2, 2025 (TN 262563). CEC staff has been and is continuing conversations with DSOD and the applicant.

Staff intends to publish the complete PSA on the proposed site and related facilities by April 30, 2025, concurrent with DSOD's iterative review of the compensation reservoir's dam structure because the outstanding information is not anticipated at this time to result in a substantial change to the current project description or identified impacts. However, if information is not provided or DSOD's review concludes the compensation reservoir's dam structure is not feasible at its proposed location or requires major design changes, the project description would need to be updated as well as any relevant environmental or technical sections, which would impact the publication of the FSA or evidentiary hearings. CEC staff urge the applicant to provide all outstanding information to CEC staff and DSOD as soon as possible.

As required in the Order, staff have used best efforts to meet and confer with the applicant and intervenors. Staff called the applicant's counsel on April 2, 2025, to discuss staff's proposed scheduling order. In addition, on April 2, 2025, counsel for staff called counsel for the Center for Biological Diversity (CBD), Zeynep Graves, and

counsel for California Unions for Reliable Energy (CURE), Richard Franco, about staff's proposed schedule. CBD did not have any objections to CEC's proposed schedule.

IV. CONCLUSION AND ORDER

Staff seeks an order scheduling the next phases of the Willow Rock Energy Storage Center project proceeding as proposed in Attachment A.

Dated: April 2, 2025

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT
COMMISSION

By:

/s/ Jared Babula

Jared Babula
Office of the Chief Counsel
California Energy Commission
Attorneys for Staff

Attachment A

Staff's requested revisions to current scheduling order.

EVENT	COMMITTEE ORDER	CEC STAFF'S PROPOSED SCHEDULE
Staff deadline to file Preliminary Staff Assessment	March 13, 2025	April 30, 2025
Public Comment Period Closes on Preliminary Staff Assessment	April 28, 2025 45 days after filing of Preliminary Staff Assessment	June 16, 2025 45 days after filing Preliminary Staff Assessment
Last Day to File Petition to Intervene	May 5, 2025 7 days after close of Preliminary Staff Assessment comment period	June 23, 2025 7 days after close of Preliminary Staff Assessment comment period
Last Day to File Objection to any Petition to Intervene	May 12, 2025 7 days after filing of a Petition to Intervene	June 30, 2025 7 days after filing of a Petition to Intervene
Staff Files Final Staff Assessment	May 28, 2025 30 days after close of Preliminary Staff Assessment comment period	July 16, 2025 30 days after close of Preliminary Staff Assessment comment period ¹
Parties File Opening Testimony	June 4, 2025 7 days after filing of Final Staff Assessment	July 21, 2025 7 days after filing of Final Staff Assessment
Parties File Rebuttal Testimony	June 11, 2025 7 days after filing of Opening Testimony	July 28, 2025 7 days after filing of Opening Testimony
Parties File Prehearing Conference Statements	June 16, 2025	August 4, 2025
Prehearing Conference	June 23, 2025	August 11, 2025
Evidentiary Hearings	June 30, 2025, and July 1, 2025	August 18, 2025, and August 19, 2025

¹ Depending on the number and nature of comments received, staff may need to request additional time to prepare the Final Staff Assessment. Staff will submit a request for extension or relief from the Revised Scheduling Order to the Committee.

Closing Briefs (if needed)	To be determined	To be determined
Committee Files Presiding Member's Proposed Decision (PMPD)	Tentatively September 2025	Defer to Committee
Public Comment Period Closes on PMPD	30 days after filing of the PMPD	30 days after filing of the PMPD
Commission Hearing on the Final Decision	To be determined	To be determined
Final Decision	Tentatively November 2025	Defer to Committee