

**DOCKETED**

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*Comment Received From: Kimberly Chandler  
Submitted On: 3/7/2022  
Docket Number: 21-AFC-01*

**Central Coast Water Board Comments on Application for Certification**

*Additional submitted attachment is included below.*



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## Central Coast Regional Water Quality Control Board

March 4, 2022

Drew Bohan, Executive Director  
California Energy Commission  
715 P Street  
Sacramento, CA 95814

Via email to  
[lisa.worrall@energy.ca.gov](mailto:lisa.worrall@energy.ca.gov)

Dear Mr. Bohan:

### **PECHO ENERGY STORAGE CENTER PROJECT (21-AFC-01); CENTRAL COAST WATER BOARD COMMENTS ON APPLICATION FOR CERTIFICATION**

We received your letter soliciting comments on the subject project on January 8, 2022. We appreciate the opportunity to provide responses to the four questions raised in the letter. Our responses follow each question as presented in the letter.

1. A discussion of those aspects of the proposed site and related facilities for which your agency would have jurisdiction but for the exclusive jurisdiction of the CEC to certify those sites and related facilities.
  - Stormwater discharges during construction would require enrollment in the *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities*, Order No. 2009-0009-DWQ amended by 2010-0014-DWQ and 2012-0006-DWQ.
  - The AFC states that no stormwater discharges will occur during the operation phase. However, the AFC also states that if a greater than 50-year storm occurs, there is potential for stormwater overflow. If stormwater discharges will occur during the maximum historic precipitation event (or series of events) from the nearest rain gauges as provided by the National Oceanic and Atmospheric Administration's (NOAA) website, then enrollment would be required in the *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities*, Order No. 2014-0057-DWQ. If no stormwater discharges will occur during the maximum historic precipitation event (or series of events), then a Notice of Non-Applicability must be filed with the Central Coast Water Board regarding Order No. 2014-0057-DWQ, certifying no industrial stormwater discharge will occur.
  - There are various waters of the state located on the site. The AFC acknowledges potential impact to these waters but does not provide detail. A Clean Water Act

JANE GRAY, CHAIR | MATTHEW T. KEELING, EXECUTIVE OFFICER

- section 401 Water Quality Certification and/or waste discharge requirements would be required for impacts or discharge of fill material to waters of the state.
- The AFC discusses various discharges, such as discharge of water generated from the RO backwash system to a dry pond and discharge of surplus water to a reservoir for subsequent uses. Depending on the characteristics of these discharges, they may be subject to waste discharge requirements from the Central Coast Water Board.
  - The Central Coast Water Board will recommend that development permits be conditioned to require the use of recycled water from the Morro Bay Water Reclamation Facility for water supply needs rather than local groundwater.
2. A determination of the completeness of the list in the AFC of the laws, regulations, ordinances, or standards that your agency administers or enforces and would be applicable to the proposed site and related facilities but for the CEC's exclusive jurisdiction.
- Clean Water Act section 401 is discussed under the federal jurisdiction section. Since the Central Coast Water Board issues Clean Water Act section 401 Water Quality Certifications, a separate discussion of state issuance of these regulatory mechanisms should be added.
  - Section 5.15.5.2 discusses state laws, ordinances, regulations and standards. This discussion is generally adequate. Please add the following:
    - a) The proposed project area is bifurcated by Chorro Creek, which flows into Morro Bay, an [Environmental Protection Agency \(EPA\) designated estuary of national significance](#) subject to a comprehensive conservation and management plan developed and implemented by the [Morro Bay National Estuary Program](#).
    - b) The project is located in the narrow and shallow Chorro Valley groundwater basin and upgradient of city of Morro Bay drinking water supply wells that are recharged in part by Chorro Creek flows. The Central Coast Water Board may require groundwater monitoring to ensure protection of drinking water beneficial uses.
    - c) Depending on the final design of the project, the Central Coast Water Board may need to issue waste discharge requirements for any waste stream that could affect the quality of surface waters or groundwaters. Waste discharge requirements permits implement the Central Coast Water Board's Water Quality Control Plan for the Central Coastal Basin (Basin Plan), which contains water quality standards, prohibitions, and implementation plans.
    - d) Discharges of waste to waters of the United States require a federal NPDES permit, which would be issued by the Central Coast Water Board. Chorro Creek is a water of the US.
    - e) The use of a purpose-built underground cavern adjacent to Chorro Creek in the Chorro valley groundwater basin would require a hydrogeologic analysis along with an evaluation of the proposed cavern system to ensure the protection of both groundwater and Chorro Creek.

3. A description of the nature and scope of the requirements that the applicant would need to meet to satisfy the substantive requirements of your agency but for the CEC's exclusive jurisdiction, and an identification of any analyses that the CEC should perform to determine whether these substantive requirements can be met.
  - During construction, the project would need to implement an effective combination of erosion and sediment control best management practices, in addition to best management practices to control construction-related wastes in stormwater. Detailed requirements can be found in the *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities*, Order No. 2009-0009-DWQ amended by 2010-0014-DWQ and 2012-0006-DWQ at [https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.html).
  - If an industrial stormwater permit applies, the project would need to implement best management practices to control industrial-related wastes in stormwater. Detailed requirements can be found in the *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities*, Order No. 2014-0057-DWQ at [https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/igp\\_20140057dwq.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/igp_20140057dwq.html).
  - If a Clean Water Act section 401 Water Quality Certification applies to the project, direct impacts to waters of the state would need to be avoided, minimized, and mitigated, in that order of preference. The requirements for impact avoidance, minimization, and mitigation can be found in the *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* at [https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/wrapp.html](https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html).
  - Other waste streams that could affect the quality of surface waters or groundwaters include RO reject, blowdown water, surplus water, cavern leakage, and wash waters. The project will have to implement best practicable treatment technologies to meet water quality standards. Treatment technologies may include waste containment, such as for blowdown and RO wastes. Waste containment must meet California Code of Regulations Title 27 standards and is subject to permitting.
4. An analysis of whether there is a reasonable likelihood that the proposed project will be able to comply with your agency's applicable substantive requirements.
  - Implementation of best management practices to control pollutants in construction and industrial stormwater is standard practice for many projects. As such, there is a reasonable likelihood that the proposed project can comply with these requirements.
  - Since the impacts to waters of the state are not identified in the AFC, it is not known if there is a reasonable likelihood the proposed project can comply with the impact avoidance, minimization, and mitigation requirements of the *State*

*Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State.* Such a determination relies upon an “alternatives analysis,” which has not yet been conducted. However, the *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* is flexible enough that most projects are able to achieve compliance.

- The project will be required to treat, contain, or haul for offsite disposal all wastes that could affect waters of the state. There is reasonably likelihood that the project will be able to comply with Central Coast Water Board permits and standards.

If you have any questions, please contact Harvey Packard at (805) 542-4639 or [Harvey.packard@waterboards.ca.gov](mailto:Harvey.packard@waterboards.ca.gov).

Sincerely,

Matthew T. Keeling  
Executive Officer

cc:  
Phil Hammer, Central Coast Water Board  
Jennifer Epp, Central Coast Water Board  
[RB3-WDR@Waterboards.ca.gov](mailto:RB3-WDR@Waterboards.ca.gov)

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