

**DOCKETED**

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<b>Project Title:</b>	Willow Rock Energy Storage Center
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<b>Document Title:</b>	CEC Staff Status Report #1
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Memorandum

**To:** Commissioner Kourtney Vaccaro, Presiding Member  
Commissioner Andrew McAllister, Associate Member

**Date:** September 26, 2022

**From:** California Energy Commission  
715 P Street  
Sacramento, CA 95814-5512

Leonidas Payne  
Project Manager  
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**Subject: STATUS REPORT #1 FOR WILLOW ROCK ENERGY STORAGE CENTER (21-AFC-02)**

In its August 31, 2022, order directing parties to file Monthly Status Reports, the Committee ordered the parties to file and serve a Status Report on or before the 26th of each month.

The California Energy Commission (CEC) staff has commenced work on a Preliminary Staff Assessment, which we expect to publish within 60 days of acknowledging in a status report that we have no further data requests.

Staff is currently engaged in discovery efforts. Staff docketed Data Requests Set 1 on July 26, 2022, less than two weeks after the Commission accepted the application as complete per its order issued July 14, 2022. The applicant provided partial responses to Set 1 on August 25, 2022. In a filing dated August 15, 2022, the applicant stated its intention to provide additional responses to Set 1 data requests on September 25, 2022, and October 31, 2022, and objected to various data requests from Set 1.

The Committee held an Informational Hearing and Site Visit on August 11, 2022. In its subsequent scheduling order, the Committee advised CEC staff and the applicant to hold a meet and confer on the topic of survey scheduling for Swainson's hawk and special status plant species, and a workshop to discuss applicant's objections to various data requests included in Set 1.

CEC staff and the applicant have concluded the meet and confer regarding Swainson's hawk and special status plant species and have reached agreement on a survey schedule for those species. The applicant provided the following language expressing the agreement in an email to the CEC project manager dated September 21, 2022:

- “1. Swainson’s hawk: we agree with the proposed survey timeframes and number of surveys.
  - a. Period II - April 1 to April 30; 3 surveys
  - b. Period III - May 1 to May 30; 3 surveys
  - c. Period IV - June 1 to July 15; 3 surveys
2. Special status plants: we agree that the survey timing is from March 1<sup>st</sup> through July 31<sup>st</sup>. We agree with the use of the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). Reference populations will be included.
3. Biologists: we will ensure that the biologists conducting the surveys have the appropriate qualifications.
4. Report timing: We agree that survey reports will be provided within 30 days of the completion of the respective survey.”

With respect to the workshop discussed in the scheduling order to address applicant’s objections to various data requests in Set 1, staff intends to conduct this workshop on October 11 and expects to file the public notice for the workshop by September 30, 2022. The purpose of this workshop will be to clarify the applicant’s objections and limit the number and scope of issues to be presented to the Committee in a potential Motion to Compel by staff. Following the workshop, the parties will file a joint statement that describes the outcome of the workshop, including any agreements reached at the workshop to resolve the objections, as directed by the Committee in the scheduling order.

The scheduling order identifies January 9, 2023, as the date when discovery closes (i.e., the last day for any party to request information), citing Cal. Code Regs., tit. 20, § 1716(e).<sup>1</sup> CEC staff has previously stated its intention to request an extension beyond the 180-day discovery period considering ongoing geotechnical evaluation of the project site and the need to complete necessary biological surveys, coupled with the potential need to file follow-up data requests after the reports associated with these activities are submitted to staff. Based on the survey date agreement language above, staff expects that its future motion for a discovery extension will request an extension of discovery to a date no sooner than 30 days following submittal of the last report submitted by the applicant related to geotechnical evaluation of the site or biological surveys. At the present time, we estimate that date will be approximately September 30, 2023, based on completion of biological surveys by July 31, 2023, 30 days for the applicant to file the associated report, and 30 days for staff to assess the report and file any necessary follow-up data requests. Should staff conclude that the reports submitted are sufficient to respond to prior data requests and that no further data requests are necessary, staff would document this conclusion in a status report and state its intention to file its Preliminary Staff Assessment no later than 60 days after the filing of that status report.

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<sup>1</sup> "All requests for information shall be submitted no later than 180 days from the date the commission determines an application is complete, unless the committee allows requests for information at a later time for good cause shown."