
San Francisco Bay Regional Water Quality Control Board

November 23, 2020

Sent via electronic mail: No hardcopy to follow

Alameda County Planning Department
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224 West Winton Avenue, Room 111
Hayward, CA 94544

Subject: San Francisco Bay Regional Water Quality Control Board Comments on the *Final Environmental Impact Report, Aramis Solar Energy Generation and Storage Project*
SCH No. 2020059008

Dear Mr. Young:

On October 19, 2020, San Francisco Bay Regional Water Quality Control Board (Water Board) staff provided comments on the *Draft Environmental Impact Report, Aramis Solar Energy Generation and Storage Project* (DEIR). The DEIR evaluated the potential environmental impacts associated with implementing the Aramis Solar Energy Generation and Storage Project (Project). We have subsequently reviewed the *Final Environmental Impact Report, Aramis Solar Energy Generation and Storage Project* (FEIR). We are providing comment today on the FEIR to note that one of the issues raised in our October 19, 2020, comment letter has not been appropriately addressed.

Project Summary. The proposed Project would construct, operate, and maintain a solar photovoltaic (PV) and electric storage facility for at least 50 years. The solar facility would generate 100 megawatts (MW) of PV power on about 410 acres of privately-owned land in unincorporated Alameda County in the North Livermore area. The project would provide solar power to utility customers by interconnecting to the regional electrical grid at Pacific Gas and Electric Company's (PG&E) existing Cayetano 230 kilovolt (kV) substation located adjacent to the project site. The project would serve East Bay Community Energy (EBCE), Clean Power San Francisco (CPSF), and/or PG&E customers by providing local generation capacity under a long-term contract.

Summary. As is discussed below, it remains unclear whether or not the FEIR identifies the full extent of wetlands at the Project site that may be regulated as waters of the State

October 19, 2020, Comment 1. The DEIR may not have identified the full extent of seasonal wetlands at the Project site that are regulated as waters of the State.

The procedures used to delineate wetlands at the Project site are described in Section 4.4, *Biological Resources*, of the DEIR. In Section 4.4.2.2, *Biological Surveys*, of the DEIR, the subsection entitled, *Assessment of Wetlands and Other Waters*, on page 4.4-14 includes the following text:

An assessment of potential wetlands and other waters of the U.S. and State on the project site was conducted on July 31 and August 1, 2018 by Dr. Aldridge and Patrick Martin. On February 6, 2020 an additional assessment of potential wetlands and other waters of the U.S. was completed by Mr. Martin and HELIX biologist Halie Goeman. The presence of wetlands and other waters were determined based on the USACE three parameter method described in the *Corps of Engineers Wetlands Delineation Manual* (USACE 1987) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region* (Version 2.0; USACE 2008). A total of 10 data points were taken in and adjacent to the project site. Aquatic resources in the project site were also evaluated for their potential to qualify as waters of the State subject to RWQCB jurisdiction and/or CDFW jurisdiction.

The text of the DEIR does not explain how it was determined that 10 sampling points were sufficient to characterize the full extent of wetlands subject to jurisdiction as waters of the State at a 410-acre site. Please revise the DEIR to provide a detailed rationale for using only 10 sample points to assess the extent of wetlands.

Also, seven of the 10 sampling points were assessed on July 31 and August 1, which is well into the dry season at the Project site. Section IV.A.2.a of the *State Wetland Definition and Procedures for Discharges of Dredged and Fill Material to Waters of the State* states that Water Board staff may require, on a case-by-case basis, supplemental field data from the wet season to substantiate dry season delineations.

2. Additional Information Required for a Complete Application

- a. If required by the permitting authority on a case-by-case basis, supplemental field data from the wet season to substantiate dry season delineations, as is consistent with the 1987 Manual and Supplements.

Generally, wet season delineations are more likely to be necessary in areas where wetland indicators are difficult to resolve. The ideal time to delineate a wetland is during the wet portion of the growing season of a normal climatic period. Otherwise, indicators provided in the Corps' delineation manuals must be relied on to identify wetland boundaries. Collection of supplemental information in certain situations is an accepted practice and is consistent with recommendations presented in the Corps regional supplements for wetland delineation, which recommends that practitioners return to the delineation site, if possible, during the "normal wet portion of the growing season" (Arid West Regional Supplement, pp. 58, 87, 104; Western Mountains, Valleys, and Coast Regional Supplement, pp. 66, 100) to resolve wetland indicators that were unresolved during the dry-season delineation. To avoid the risk of unanticipated project delays,

applicants may consult with the appropriate Water Board regarding whether supplemental data may be necessary prior to submitting an application.

In addition to re-evaluating the sufficiency of 10 sample points to assess the full extent of wetlands at a 410-acre Project site, the wetland delineation should be repeated late in the wet season of a year with typical rainfall to ensure that the full extent of wetlands subject to regulation as waters of the State have been identified. Without a wet-season delineation with a sufficient number of data points, it is not possible to establish with sufficient certainty that the Project will avoid impacts to waters of the State.

Project Proponent Response to Water Board Comment 1 on the DEIR.

The FEIR responded to Comment 1 in Response #100-3, which includes the following text:

HELIX conducted a routine assessment of wetlands and “other waters” of the U.S. and State on July 31, 2018, August 1, 2018 and February 6, 2020, in accordance with the USACE *Wetlands Delineation Manual*, the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0)*, *A Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States*, and SWRCB policies and guidelines. HELIX collected 10 data points, which documented upland areas in streams and swales. HELIX delineated five aquatic features: one ephemeral stream, one intermittent stream (Cayetano Creek), and three ephemeral tributaries to Cayetano Creek totaling 5.13 acres. With the exception of one ephemeral stream in the northwest corner of the northern parcel (north of Manning Road) that totals approximately 0.08 acre in size, the project boundaries have been modified to exclude aquatic features from within the project site.

The project site was surveyed a total of 22 times by biologists assessing the site for biological habitats, including wetlands, conducting botanical surveys, and focused surveys for CRLF and burrowing owl. As noted above, HELIX collected 10 data points, which documented upland areas in streams and swales. Seven of those data points were collected in the dry season between July and August of 2018 and the final three data points were collected in the wet season in February 2020. In addition, the site was assessed for the presence of wetlands on December 6, 2017 (biological reconnaissance survey, CRLF and CTS habitat assessment) and then the site was surveyed on six separate dates between January and May of 2018 during the wet season during protocol surveys for CRLF, during which time the biologists searched for the presence of wetlands or other aquatic features. The site was assessed again during the wet season specifically for the presence of wetlands or other aquatic resources on February 6, 2020. On February 25 and 26, 2020 transects were walked of the entire site during burrowing owl surveys. The site was surveyed on six more dates between March and May 2020 for CRLF and burrowing owl.

There is no need to revisit the site during later wet seasons to verify/resolve wetland boundaries and take additional data points as there are no wetlands on the site as determined through 22 biological surveys, including 15 site visits during the wet season.

November 23, 2020, Follow-Up to Comment 1. The FEIR may not have identified the full extent of seasonal wetlands at the Project site that are regulated as waters of the State.

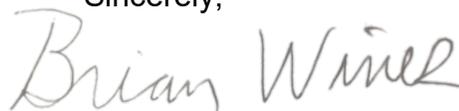
Response #100-3 makes the highly unorthodox assertion that it is scientifically acceptable to substitute surveys for the presence of special status species, including non-aquatic species (borrowing owls), for wetland delineations. Protocol level surveys for special status species and wetland delineations are well-defined scientific procedures, with different data collection procedures and objectives. Unless the Project proponent's consultant can produce field data sheets for special status species surveys that contain all of the information recorded for wetland delineations (e.g., hydric soil indicators, wetland hydrology, wetland vegetation), it is inappropriate to assert that special status species surveys are equivalent to wetland delineations.

In addition, Response #100-3 does not justify the adequacy of the number of data points used in the DEIR, or address the absence of sufficient wet season wetland delineation data points to sufficiently characterize the potential presence of seasonal wetlands at the Project site. Comment 1 on the DEIR remains unresolved in the FEIR. We recommend that Response #100-3, and all references to Response #100-3, be deleted from the FEIR.

Conclusion. The FEIR does not yet support the conclusion that Project implementation will not impact any waters of the State, since most of the delineation field work was conducted well into the dry season. Dry season delineations in Mediterranean climates are likely to miss the full extent of seasonal wetlands. Furthermore, the suggestion that special status species surveys can be used as a substitute for wetland delineations is inappropriate. Therefore, we continue to encourage the Project proponent to conduct additional field work for wetland delineation late in the 2020 through 2021 wet season, and to design the field work to accurately assess the full extent of wetlands at the 410-acre site. .

If you have any questions, please contact me at (510) 622-5680, or via e-mail at brian.wines@waterboards.ca.gov.

Sincerely,



Brian Wines
Water Resources Control Engineer

South and East Bay Watershed Section

cc: State Clearinghouse (state.clearinghouse@opr.ca.gov)
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