
Lahontan Regional Water Quality Control Board

July 28, 2021

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Additional Comments on Proposed Action for Use Permit #2020-004, Initial Study #2020-001, Hooper

Dr. Charles Hooper is proposing to construct a 50-megawatt photovoltaic solar array and battery energy storage system (BESS) and related infrastructure (Project). The anticipated Project infrastructure includes a substation, a dead-end tower up to 90-feet-tall, 24 130-foot-tall steel gen-tie transmission line poles to interconnect with the Plumas-Sierra Rural Electric 120-kV transmission line approximately 3 miles south of the Project site, access roads, and perimeter fencing.

Lassen County will serve as the California Environmental Quality Act (CEQA) lead agency for this Project and is preparing a Mitigated Negative Declaration stating that there is no substantial evidence in the record, as currently filed, which indicates that the proposed Project may have a significant effect on the environment, give mitigation measures incorporated into the Project.

This letter provides Lahontan Regional Water Quality Control Board' staff's (Water Board staff) comments on the Project, in addition to those comments previously submitted, to assist Lassen County and the Project implementor with early Project planning. Please consider both comment letters submitted by Water Board staff.

Wetlands of the State

Upon reviewing Section 6.4.3.4 of the Initial Study (IS), Water Board staff did not find an adequate level of information to justify the lack of presence of state wetlands, which are considered waters of the state, in the Project area. Water Board staff recommend that the Lead Agency conducts additional field-based studies to adequately justify the lack of impacts waters of the state in the Project area. Water Board staff also recommend that the Project implementer consider potential future Water Board permitting requirements if determined the Project will result in impacts to waters of the state.

According to the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Procedures), an area is defined as a wetland as follows:

“An area is wetland if, under normal circumstances, (1) the area has continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both; (2) the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and (3) the area’s vegetation is dominated by hydrophytes or the area lacks vegetation.”

Based on information provided in the IS, Water Board staff are concerned that certain playa features in the Project area may meet the state’s definition of a wetland and should be documented and analyzed in the IS as such. Those concerns are based on the following information:

- The IS provides information from field reconnaissance in 2019 that indicates some locations within the Project area are seasonally ponded with surface water. Water Board staff assume that ponding water at the soil surface is representative of saturated conditions in the soil below. In these locations, criteria (1) of the wetland definition in the Procedures may be met.
- As seen in pictures provided in the IS and in areal images, locations in the Project area lack vegetation. In these locations, criteria (2) of the wetland definition in the Procedures is met.
- Upon reviewing soil maps for the Project area, Water Board staff noted the presence of the Playa soil series in addition to the referenced Ragtown and Epot soil series. Playa soils are noted to contain a hydric rating, indicating that soils formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part. In these locations, criteria (3) of the wetland definition in the Procedures may be met.

Further, when making the determination that there are no wetlands that qualify as waters of the state present in the Project area, the IS, while referencing the criteria contained in the Procedures, states,

“The site of the proposed project fails to meet any of these conditions and is therefore not recognized as a wetland by current state or federal policy, despite the USFFW’s documentation of historical alkali flats in the region.”

The justification provided in this section does not directly address why certain areas in the project site do not meet the wetland definition established in the Procedures. Water Board staff request the Lead Agency revise the IS to provide additional site-specific information about the playa features within the Project area and to provide more detail as to why the playa features do not qualify as waters of the state.

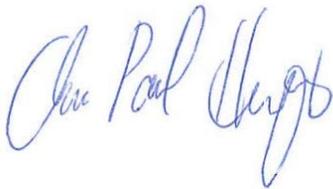
Permitting Considerations for Impacts to Waters of the State

The IS describes activities that may require a Waste Discharge Requirement for Discharges of Dredged or Fill Material to Waters of the State (WDR). The Procedures provide a wetland definition; a wetland delineation procedure; a framework to determine if a wetland is a water of the state; and procedures for the submittal, review and approval of applications for Water Quality Certifications and/or Waste Discharge Requirements for Dredge or Fill Activities.

Please review the requirements in the Procedures prior to submitting an application for Water Quality Certification. The Procedures, and supporting material, can be viewed at the following webpage:

https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html

Thank you for providing Water Board staff the opportunity to provide comments on this Project. Please contact me at adam.henriques@waterboards.ca.gov or (530) 542-5439 with any questions.

A handwritten signature in blue ink that reads "Adam Henriques". The signature is written in a cursive, flowing style.

Adam Henriques
Environmental Scientist