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Submitted On: 10/6/2025
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CDFW's Comments on the NOP for DEIR for Potentia-Viridi Project

Additional submitted attachment is included below.



State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
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October 6, 2025

Ann Crisp, Project Manager
 California Energy Commission
 715 P Street, MS 40
 Sacramento, CA 95814
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Subject: Potentia-Viridi Battery Energy Storage System Project, Notice of Preparation
 of a Draft Environmental Impact Report, SCH No. 2025090227,
 Alameda County

Dear Ann Crisp:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) from the California Energy Commission (CEC) for the Potentia-Viridi Battery Energy Storage System Project (Project). CDFW is taking this opportunity to provide comments and recommendations regarding proposed Project activities that may affect fish and wildlife resources of the State, pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish & G. Code, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

The proposed Project would ordinarily require one or more discretionary approvals by CDFW because it may result in substantial adverse impacts to fish and wildlife resources such as Lake and Streambed Alteration (LSA) (Fish & G. Code, § 1602); and incidental take of species protected under the California Endangered Species Act (CESA). (*Id.*, § 2081, subds. (b)-(c).) CDFW would typically submit comments as a

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) However, because the Project proponent opted into the Assembly Bill (AB) 205 certification process, the CEC has exclusive jurisdiction over the proposed Project and is responsible for ensuring any certification of the proposed Project includes all conditions necessary to ensure compliance with the Fish and Game Code and its implementing regulations found in Title 14 of the California Code of Regulations. (Pub. Resources Code, §§ 25545.1, subd. (b), & 25545.5, subd. (a).) Thus, CDFW does not have a direct permitting role in the process that would ordinarily trigger a Responsible Agency role. CDFW instead submits these comments as a Trustee Agency under CEQA.

Pursuant to AB 205, the CEC and CDFW developed a coordination plan through a Memorandum of Understanding (MOU) to ensure that all potential impacts to fish, wildlife, and plant resources, and the habitats upon which they depend, including, but not limited to incidental take of species protected under CESA, are consistent with the Fish and Game Code and its implementing regulations found in Title 14 of the California Code of Regulations. (Pub. Resources Code, § 25545.5, subd. (a).) The MOU also ensures timely and effective consultation between the CEC and CDFW with respect to any proposed CEC findings and actions regarding potential impacts to fish, wildlife, and plant resources. (*Ibid.*) CDFW is thus also submitting these comments in its **consultation role** under AB 205 and the MOU.

PROJECT DESCRIPTION AND LOCATION SUMMARY

Proponent: Levy Alameda, LLC, a wholly owned subsidiary of Obra Maestra Renewables, LLC

Objective: The Project proposes to construct a 400-megawatt (MW) Battery Energy Storage System (BESS) facility on approximately 102 acres of mostly annual grasslands. Primary components of the proposed BESS facility include an Operations and Maintenance (O&M) building, a project substation, a 500-kilovolt overhead intertie transmission (gen-tie) line, and interconnection facilities within the Pacific Gas and Electric Company (PG&E) owned and operated Tesla Substation. The BESS would have an energy storage capacity of up to 3,200 MW-hours.

Location: The proposed Project is located at 17257 Patterson Pass Road, approximately 2.5 miles southwest of the City of Tracy in Alameda County; southwest of Interstate 580 and Interstate 205, within Assessor's Parcel Number (APN) 99B-7890-002-04; latitude 37.711434, longitude -121.573156. The Project's gen-tie line would run approximately 2,500 feet, extending southeast from the Project substation, crossing Patterson Pass Road, and then proceeding east to the Point of Interconnection at the Tesla Substation, approximately 500 feet east of the Project site. The gen-tie would be located on APNs 99B-7890-2-4, 99B-7890-2-6 and 99B-7885-12.

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Timeframe: The Project is anticipated to be built over an approximately 15 to 18-month period from 2026 through 2028.

Consultation with CDFW: CDFW appreciates the opportunity to have engaged with CEC staff and/or the Project proponent in numerous meetings, phone calls and other communications for the Project, including a pre-filing meeting on March 22, 2024, and meetings following CDFW's notice of the Opt-in Application on August 8, 2024. CDFW and CEC met frequently to discuss the Project's data requests until the application was deemed complete by the CEC on August 29, 2025. CDFW also participated in the public informational and scoping meeting on September 18, 2025. CDFW will continue to collaborate with, and provide support to, the CEC throughout the AB 205 certification process.

COMMENTS AND RECOMMENDATIONS

The EIR that will be prepared will disclose the potential environmental impacts associated with the Project. CDFW offers the following comments and recommendations to assist the CEC in adequately identifying the Project's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources.

Special-Status Species and Habitats: CDFW recommends that the draft EIR provide baseline habitat assessments for special-status plant, fish, and wildlife species located and potentially located within the Project area and surrounding accessible lands, including all species considered to be rare, threatened, or endangered species. (CEQA Guidelines, § 15380.) State fully protected species, species listed as threatened or endangered under state or federal law, candidate species for listing under state or federal law, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to the species listed in **Attachment A**. The draft EIR should describe and analyze impacts to aquatic habitats, such as wetlands or habitats within waters of the United States or waters of the State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for more information about sensitive natural communities, see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>).

Aquatic Resources: The Project proposes to install structures such as detention and bioretention basins that would eventually drain into the Patterson Run stream. Based on several discussions with the CEC and the Project proponent, CDFW understands the Project also includes installation of a low-water crossing and outfall. CDFW recommends that the draft EIR include a full analysis of the Project's impacts to the stream's bed, banks, and channel, including the anticipated 2,100 square feet of impacts from the low-water crossing, the anticipated 80 square feet of impacts related to

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the outfall, and potential long-term impacts from changes to the site and stream hydrology (e.g., stream incision due to increases to volume and frequency of stormwater runoff). CDFW also recommends including measures necessary to address applicable Fish and Game Code section 1602 requirements for impacts to Patterson Run and any other rivers, streams, or lakes.

Cumulative Impacts: CDFW recommends that the EIR address cumulative impacts for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project. CDFW recommends that the EIR identify past, present, and reasonably foreseeable projects producing related impacts in the Project vicinity and fully analyze any cumulative impacts for which the combined impact of the Project and related projects is significant and the Project's incremental contribution to the impact is cumulatively considerable. (CEQA Guidelines, §§ 15130, subds. (a)-(a)(2) & 15355.)

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP in order to assist the CEC in identifying, analyzing, and mitigating Project impacts on biological resources. CDFW will continue to meet with CEC staff ahead of, and during, draft EIR preparation to discuss potential Project-related impacts and possible avoidance, minimization, and/or mitigation measures for the biological resources that may be analyzed in the EIR, as well as helping to develop measures necessary to address the requirements of Fish and Game Code Section 2081(b)-(c) (Incidental Take Permit pursuant to CESA) and Section 1602 (LSA).

If you have any questions regarding this letter, please contact Gabriele Quillman, Senior Environmental Scientist (Specialist), at (707) 815-9867 or at Gabriele.Quillman@wildlife.ca.gov; or Brenda Blinn, Senior Environmental Scientist (Supervisory) at (707) 339-0334 or at Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell

B77E9A6211EF486

Erin Chappell
Regional Manager
Bay Delta Region

Attachment: ATTACHMENT A

ec: Office of Land Use and Climate Innovation (SCH No. 2025090227)
Melissa Farinha, CDFW Bay Delta Region – Melissa.Farinha@wildlife.ca.gov

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ATTACHMENT A

Common name	Scientific name	Status
Invertebrates		
Crotch's bumble bee	<i>Bombus crotchii</i>	SCE
Monarch butterfly	<i>Danaus plexippus</i>	FPT
Amphibians & reptiles		
Northwestern pond turtle	<i>Actinemys marmorata</i>	FPT, SSC
California tiger salamander – Central California Coast DPS	<i>Ambystoma californiense</i>	FT, ST
San Joaquin coachwhip	<i>Masticophis flagellum ruddocki</i>	SSC
Western spadefoot	<i>Spea hammondi</i>	FPT, SSC
California red-legged frog	<i>Rana draytonii</i>	FT, SSC
Coast horned lizard	<i>Phrynosoma blainvillii</i>	SSC
Birds		
Tricolored blackbird	<i>Agelaius tricolor</i>	ST
Grasshopper sparrow	<i>Ammodramus savannarum</i>	SSC
Golden eagle	<i>Aquila chrysaetos</i>	SFP
Short-eared owl	<i>Asio flammeus</i>	SSC
western burrowing owl	<i>Athene cunicularia</i>	SCE, SSC
Swainson's hawk	<i>Buteo swainsoni</i>	ST
Northern harrier	<i>Circus hudsonius</i>	SSC
White-tailed kite	<i>Elanus leucurus</i>	SFP
California condor	<i>Gymnogyps californianus</i>	FE, SE, SFP
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC
Mammals		
Pallid bat	<i>Antrozous pallidus</i>	SSC

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American badger	<i>Taxidea taxus</i>	SSC
Plants		
Alkali milk-vetch	<i>Astragalus tener</i> var. <i>tener</i>	1B.2
Brittlescale	<i>Atriplex depressa</i>	1B.2
Heartscale	<i>Atriplex cordulata</i> var. <i>cordulata</i>	1B.2
Big-scale balsamroot	<i>Balsamorhiza macrolepis</i>	1B.2
Big tarplant	<i>Blepharizonia plumosa</i>	1B.1
Lemmon's jewelflower	<i>Caulanthus lemmonii</i>	1B.2
Congdon's tarplant	<i>Centromadia parryi</i> ssp. <i>congdonii</i>	1B.1
Palmate-bracted bird's-beak	<i>Chloropyron palmatum</i>	FE, SE, 1B.1
Recurved larkspur	<i>Delphinium recurvatum</i>	1B.2
Spiny-sepaled button-celery	<i>Eryngium spinosepalum</i>	1B.2
Diamond-petaled California poppy	<i>Eschscholzia rhombipetala</i>	1B.1
San Joaquin spearscale	<i>Extriplex joaquinana</i>	1B.2
Showy golden madia	<i>Madia radiata</i>	1B.1
Shining navarretia	<i>Navarretia nigelliformis</i> ssp. <i>radians</i>	1B.2
California alkali grass	<i>Puccinellia simplex</i>	1B.2
Saline clover	<i>Trifolium hydrophilum</i>	1B.2
Caper-fruited tropidocarpum	<i>Tropidocarpum capparideum</i>	1B.1
Notes: FT = listed as threatened under the federal Endangered Species Act; FE = listed as endangered under the federal Endangered Species Act; FPT = proposed to be listed as threatened under the federal Endangered Species Act; FPE = proposed to be listed as endangered under the federal Endangered Species Act; ST = listed as threatened under CESA or Native Plant Protection Act (NPPA); SE = listed as endangered under CESA or NPPA; SCT = candidate for listing as threatened under CESA or NPPA; SCE = candidate for listing as endangered under CESA or NPPA; SSC = state species of special concern; SFP = state listed as fully protected; 1B.1 = rare, threatened, or endangered in California and elsewhere and seriously threatened in California; 1B.2 = rare, threatened, or endangered in California and elsewhere and moderately threatened in California.		