

**DOCKETED**

<b>Docket Number:</b>	25-OPT-02
<b>Project Title:</b>	Prairie Song Reliability Project
<b>TN #:</b>	267872
<b>Document Title:</b>	The Acton Town Council Comments - Comment from the Acton Town Council
<b>Description:</b>	N/A
<b>Filer:</b>	System
<b>Organization:</b>	The Acton Town Council
<b>Submitter Role:</b>	Public
<b>Submission Date:</b>	12/10/2025 8:52:48 AM
<b>Docketed Date:</b>	12/10/2025

*Comment Received From: The Acton Town Council*  
*Submitted On: 12/10/2025*  
*Docket Number: 25-OPT-02*

## **Comment from the Acton Town Council**

*Additional submitted attachment is included below.*



December 10, 2025

Lisa Worrall, Project Manager  
California Energy Commission  
715 P Street, MS-40  
Sacramento, CA 95814

Subject: Acton Town Council Concerns Regarding the Elimination of Access Routes by the "Prairie Song" BESS Developer.

Reference: California Energy Commission Docket Number 25-OPT-02.

Dear Ms. Worrall;

The Acton Town Council is substantially alarmed by recent actions taken by "Prairie Song Reliability Project LLC" (Applicant) that have deleteriously affected Acton residents who live adjacent to the proposed Prairie Song BESS development site. Specifically, the Applicant has installed long concrete "K-Rails" (also known as Jersey barriers) at the entrances of all existing access routes in the neighborhood and have thus blocked off residential access. Photos of this are provided below. As a result of these actions, residents are now forced to use a substandard route that is persistently damaged by rain runoff.



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*"Our lives begin to end the day we become silent about things that matter"* Martin Luther King, Jr.



The access routes that the Applicant/Agent has blocked off have been used prescriptively by neighborhood residents for more than 35<sup>1</sup> years. To make matters worse, residents are being pressured to sign documents that the Applicant calls “Access Easement Agreements” but which in fact eliminate all prescriptive access rights<sup>2</sup>, and even worse, the negligible easement benefits that these documents provide can be peremptorily and unilaterally terminated by the Applicant with just a 90 day notice. A copy of one of these documents is provided in Attachment 1 (the names and addresses are redacted to protect residents).

None of this is acceptable to the Community of Acton, and the Acton Town Council is appalled by the coercive tactics used by the Applicant to bully and intimidate Acton residents into submission and drive them into waiving their rights. These residents are already quite apprehensive about the devastating wildfire, noise, and aesthetic impacts presented by the BESS project and the adverse effects these impacts will have on their homes, their families, and their wellbeing. The Acton Town Council can only conclude from these strong-arm tactics that the Applicant has nothing but disdain for our residents and disregard for our community.

As the Prairie Song BESS is in the heart of Acton, and as Acton is a Very High Fire Severity Zone (VHFHSZ), our residents must have two reasonable means of access and egress. Nonetheless, it is clear from the plain language of the “easement” document and the aggressive stance taken by the Applicant (such as blocking off ancient access routes to pressure residents to sign away their access rights) that the Prairie Song BESS developer is not interested in the safety and security of Acton residents. This is particularly disturbing given that the Prairie Song BESS will itself pose a significant wildfire risk because of the lithium ion battery chemistry it will utilize (though this fact is not disclosed anywhere in the Application). The disdain that the Applicant shows toward Acton residents at this very early stage of the application process is indicative of a lack of “good faith” which is a key element in any entitlement process. Accordingly, the Acton Town Council has no confidence that the Applicant will provide Acton residents with two reasonable means of access in the event the Commission approves the BESS development as proposed. After all, if the developer is already eliminating existing prescriptive access opportunities **before** the project is even approved (and thus before such action is even necessary) why should anyone believe any commitment made by the Applicant that adequate access opportunities will be provided **after** the project is approved? Our concerns are not unfounded: the site

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<sup>1</sup> The Acton Town Council can provide proof of this because we have aerial photographs of the area dating back to 1990.

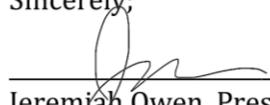
<sup>2</sup> The last term in this “Access Easement Agreement” is titled “Relinquishment of Prescriptive Rights” and it states in part that “Grantee on behalf of itself, its heirs, successors and assigns hereby waives and releases, and covenants not to assert any right, claim, or cause of action which it may now have or which it may have in the future for access rights against the Adjacent Property”.

plan (Figure 1-3) and the visual simulations (Section 3-13) of the Prairie Song BESS Application indicate that the block walls proposed by the project will be located along the property boundaries and thus eliminate all existing access routes.

The Acton Town Council has also investigated some of the history of Assessor Parcel Number 3056-019-037 (upon which the Applicant has blocked off all access routes), and according to information obtained from the Assessor's Office and the Department of Regional Planning, parcel 3056-019-037 was not established legally and in conformance with the California Subdivision Map Act (Gov Code § 66410 et seq.) Accordingly, and before any development can occur on the property, the owner must obtain a "Certificate of Compliance" from the County of Los Angeles. Furthermore, and as required by Section 66499.35(b) of the Government Code, the Certificate of Compliance must be conditioned to ensure the developer complies with all the requirements "that would have been applicable to the division of the property at the time the applicant acquired his or her interest therein"; these conditions include, but are not limited to, providing access opportunities to surrounding properties (particularly those properties that were altered or affected by the illegal subdivision when it occurred)<sup>3</sup>. It is the Acton Town Council's hope that, as part of the Certificate of Compliance process, the Commission and the County will ensure that the access difficulties caused by the Applicant's unconscionable actions in blocking off neighborhood access will be resolved to the mutual benefit of both the surrounding property owners and the Applicant. For example, the Acton Town Council recommends that the Applicant place the block wall surrounding the BESS at least 30 feet back from the property line and grade a road way around it; the 30 feet should be sufficiently wide to provide a safe, 2 way access route and accommodate the necessary trees for screening and landscaping.

For the reasons set forth above, the Acton Town Council respectfully requests that the Commission direct the Applicant to 1) restore all access routes during the pendency of the Prairie Song Application; 2) comply with the Subdivision Map Act; and 3) configure the project in a manner that provides Acton residents with two reasonable access routes in the event the Prairie Song BESS is approved as proposed.

Sincerely;



\_\_\_\_\_  
Jeremiah Owen, President  
The Acton Town Council

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<sup>3</sup> From inception, an objective of the Subdivision Map Act was to preclude parcels from being "landlock".

**ATTACHMENT 1**

**DOCUMENT THAT ACTON RESIDENTS ARE BEING  
PRESSURED TO SIGN THAT WAIVES ALL CURRENT  
AND FUTURE ACCESS RIGHTS.**

**Recording Requested by  
And When Recorded Return to:**

Prairie Song Reliability Project LLC  
Attn: Nate Crain  
140 Broadway, 46th Floor,  
New York, NY 10005

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(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

APN(s): 3056019037

### **ACCESS EASEMENT AGREEMENT**

**THIS ACCESS EASEMENT AGREEMENT** ("Agreement") is made and entered into as of \_\_\_\_\_ ("Effective Date") by and between Prairie Song Reliability Project LLC, a Delaware limited liability company (together with its heirs, successors and assigns, "Grantor"), and \_\_\_\_\_ (together with its transferees, successors and assigns, "Grantee").

#### **RECITALS**

- A. Grantor owns or will own certain real property located in Los Angeles County, State of California ("Property").
- B. Grantor agrees to grant, and Grantee agrees to accept, easement rights as more particularly described herein with respect to that certain portion of the Property described and depicted on Exhibit A attached hereto (the "Easement Area").

#### **AGREEMENT**

**1. GRANT OF EASEMENT.** For and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor grants, transfers and conveys to Grantee easements on, over, under and across the Easement Area (collectively, the "Easement") as set forth in this Agreement.

**2. USE OF EASEMENT.** The Easement allows Grantee to use the Easement Area:

- (a) for vehicular and pedestrian ingress, egress and access by means of now existing or newly constructed roads of any kind, access routes, and entranceways within the Property (the Easement rights in this clause (a), collectively, the "Access Easement") or by such route(s) and/or

roads and trails as Grantee may construct, reconstruct, improve and maintain from time to time (collectively, “**Road Improvements**”); and

(b) the right, permission, and authority to trim, cut, clear or remove, from time to time and by any means (and, for the avoidance of doubt, in each case at the Grantee’s cost), from and adjacent to the Easement Area trees, brush, debris, and any and all obstructions of whatsoever kind or character which, in the Grantee’s reasonable judgment, may endanger the safety of, or otherwise interfere with Grantee’s exercise of the rights in this Agreement;

**3. EASEMENT AREA.** The Easement Area is not fixed as of the Effective Date but shall be as close as is reasonably practicable in Grantee’s good faith determination to the locations on the Property provided in **Exhibit A** attached hereto and incorporated herein by this reference. Upon receipt of a more particular legal description for the Easement Area, Grantor hereby agrees to amend **Exhibit A** to this Agreement to include such more particular legal description of the Easement Area.

**4. TERM.** The term of this Agreement and the Easement commences on the Effective Date and shall continue in perpetuity unless and until Grantor provides notice of termination to the Grantee (the “Term”). Grantor may terminate this Agreement and the Easement by delivering to Grantee ninety (90) days’ advance written notice. Upon such termination, to the extent permitted by law, Grantor may record a termination and release of this Agreement and the Easement without joinder of Grantee in the Real Property Records of the County where the Property is located. Upon the written request of Grantor, Grantee shall execute any documentation necessary to effectuate such termination.

**5. Intentionally omitted.**

**6. GRANTOR’S REPRESENTATIONS, WARRANTIES AND COVENANTS.** Grantor hereby represents, warrants and covenants to Grantee during the term of this Agreement and the Easement granted herein:

6.1 Grantor’s Authority. Grantor owns the Property in fee simple, subject to no liens or encumbrances except as disclosed in writing to Grantee in a title report or other document delivered to Grantee prior to execution of this Agreement. Grantor and each person signing this Agreement on behalf of Grantor has the full and unrestricted right and authority to execute this Agreement and to grant to Grantee the Easement and other rights granted hereunder. Each person signing this Agreement on behalf of Grantor is authorized to do so, and all persons having any ownership or possessory interest in the Property (including spouses) are signing this Agreement as Grantor. When signed by Grantor, this Agreement constitutes a valid and binding agreement enforceable against Grantor in accordance with its terms.

6.2 Quiet Enjoyment. Subject to the terms and conditions of this Agreement, Grantee shall peacefully hold and enjoy all of the rights granted by this Agreement for its entire Term without hindrance or interruption by Grantor or any person lawfully or equitably claiming by, through or under Grantor.

**7. GRANTEE’S REPRESENTATIONS, WARRANTIES AND COVENANTS.** Grantee hereby represents, warrants and covenants to Grantor that:

7.1 Intentionally omitted.

7.2 Indemnity. Grantee will indemnify Grantor against liability for physical damage to property and for physical injuries or death to Grantor, Grantor's property or the public, to the extent caused by Grantee's construction, operation or removal of Improvements on the Property, except to the extent such damages, injuries or death are caused or contributed to by the act, negligence, omissions or willful misconduct of Grantor or Grantor's tenants, invitees or permittees. The reference to property damage in the preceding sentence does not include any damages to crops or any losses of rent, business opportunities, profits and the like that may result from Grantor's loss of use of any portions of the Property occupied by, or otherwise attributable to the installation of, Improvements pursuant to this Agreement.

7.3 Construction Liens. Grantee shall keep the Property free and clear of all liens and claims of liens for labor and services performed on, and materials, supplies or equipment furnished to, the Property in connection with Grantee's use of the Property pursuant to this Agreement beyond any applicable notice and cure period; provided, however, that if Grantee wishes to contest any such lien, it shall notify the Grantor of its intentions and Grantee shall, within sixty (60) days after it receives notice of the filing of such lien, remove or bond around such lien pursuant to applicable law.

7.4 Hazardous Materials. Grantee shall not knowingly violate, and shall indemnify Grantor against, any violation by Grantee or Grantee's agents or contractors of any federal, state or local law, ordinance or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any substance, material or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state or local laws or regulations, on or under the Property.

8. Intentionally omitted.

9. **DEFAULT AND TERMINATION.**

9.1 Default by Grantee. The following shall constitute an event of default by Grantee ("Default"): (a) a material default in the performance of Grantee's obligations under this Agreement shall have occurred and remain uncured, (b) Grantor has notified Grantee in writing of the default, which notice sets forth in reasonable detail the facts pertaining to the default and specifies the method of cure, and (c) the default has not been remedied within thirty (30) days after Grantee received the written notice, or, if cure will take longer than thirty (30) days for Grantee, has not begun diligently undertaking the cure within the relevant time period and thereafter prosecuted the cure to completion.

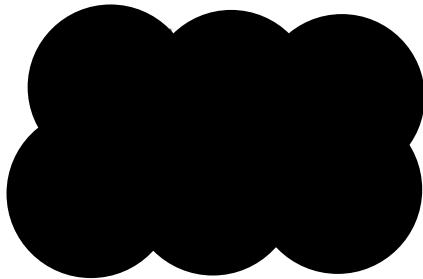
10. **CONDEMNATION.** Should title or possession of any portion of the area of the Property affected by the Easements be taken by right of eminent domain, rendering any remaining portion of either unsuitable for Grantee's use, then the location of the Easements shall be relocated to the extent practicable in light of Grantor's then current interests in the Property, provided that the effect on then-existing uses of the Property by Grantor shall be minimized or mitigated to the extent practical.

**11. ESTOPPEL CERTIFICATES.** Grantee shall execute such estoppel certificates certifying as to such matters as Grantor or any potential lender or mortgagee, title insurance Grantor, tax equity investor, assignee or other similar entity (each a “**Requestor**”) may reasonably request, including, without limitation, that no default then exists under this Agreement, if such be the case. The failure of Grantee to deliver any signed estoppel certificate, whether such estoppel certificate indicates agreement or disagreement with the accurateness of the certificate, within ten (10) days after Grantor’s or any Requestor’s written request therefor shall be conclusive evidence that (i) this Agreement is in full force and effect and has not been modified; (ii) there are no uncured events of default by Grantor; and (iii) the other certifications requested by Grantor or any Requestor in its estoppel, are in fact, true and correct

**12. MISCELLANEOUS.**

12.1 Notices. All written notices and demands of any kind which either party may be required or may desire to serve upon the other party in connection with this Agreement may be served by (a) personal service, (b) registered or certified mail (postage pre-paid), (c) email or (d) next day overnight delivery service. Any such notice or demand shall be addressed to the parties as listed in this Section 13. Service of any such notice or demand shall be deemed complete (i) upon receipt in the event of personal service, (ii) on the third business day after deposit in the U.S. mail if sent via registered or certified mail, (iii) upon transmission in the event sent via email and (iv) on the next business day if sent via an overnight delivery service, if sent to each party at the address set forth below with the required proper postage:

If to Grantee:



If to Grantor:

Prairie Song Reliability Project LLC  
Attn: Nate Crain  
140 Broadway, 46th Floor,  
New York, NY 10005

With a copy to:  
[landnotice@covalinfra.com](mailto:landnotice@covalinfra.com)

Any party may change its address for purposes of this paragraph by giving written notice of such change to the other parties in the manner provided in this paragraph.

12.2 Entire Agreement; Amendments. This Agreement constitutes the entire agreement between Grantor and Grantee respecting its subject matter. Any agreement, understanding or representation respecting the Property, this Agreement, or any other matter referenced herein not expressly set forth in this Agreement or a subsequent writing signed by both parties is null and void. This Agreement shall not be modified or amended except in a writing signed by both parties. No purported modifications or amendments, including, without limitation, any oral agreement

(even if supported by new consideration), course of conduct or absence of a response to a unilateral communication, shall be binding on either party.

12.3 Easement in Gross. The easement granted herein is an easement in gross and is personal to the Grantee. This easement shall not be assigned, transferred, or conveyed by the Grantee, whether voluntarily, involuntarily, or by operation of law. Any attempted assignment or transfer of this easement by the Grantee shall be null and void and shall result in the immediate termination of all easement rights granted herein.

12.4 Legal Matters. If the parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, they agree that such dispute shall be resolved in the federal court located in the county in which the Property is situated, or if none, then a federal court nearest the county in which the Property is situated. **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY SHALL BE ENTITLED TO, AND EACH OF GRANTOR AND GRANTEE HEREBY WAIVES ANY AND ALL RIGHTS TO RECOVER, CONSEQUENTIAL, INCIDENTAL, AND PUNITIVE OR EXEMPLARY DAMAGES, HOWEVER ARISING, WHETHER IN CONTRACT, IN TORT, OR OTHERWISE, UNDER OR WITH RESPECT TO ANY ACTION TAKEN IN CONNECTION WITH THIS AGREEMENT.**

12.5 Partial Invalidity. Should any provision of this Agreement be held, in a final and unappealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding. Notwithstanding any other provision of this Agreement, the parties agree that in no event shall the term of this Agreement be longer than, respectively, the longest period permitted by applicable law.

12.6 No Partnership. Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation or liability on or with regard to any one or more of the parties to this Agreement.

12.7 Intentionally omitted.

12.8 Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties and their respective successors, and assigns.

12.9 Governing Law. This Agreement shall be governed in accordance with the laws of the State of California.

12.10 Further Assurances. Upon the request of Grantee, its tenants, successors and assigns and any Lender, Grantor shall do any other acts and execute, acknowledge, and deliver any requested commercially reasonable documents in order to carry out the intent and purpose of this Agreement, including, without implied limitation, further conveyances, assignments, confirmations, instruments of further assurance, approvals, consents, and any further instruments or documents that are necessary, expedient, or proper to carry out the intent and purpose of this Agreement.

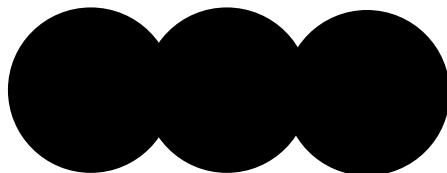
12.11 Counterparts. This Agreement may be executed with counterpart signature pages and in duplicate originals, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

12.12 Relinquishment of Prescriptive Rights. To the fullest extent allowed by law, Grantee hereby relinquishes any prescriptive access rights it may have over adjacent property owned or to be owned by Grantor (excepting the Easement Area), including without limitation that certain property identified as [REDACTED] (the “**Adjacent Property**”). Upon receipt of the Easement granted herein, Grantee on behalf of itself, its heirs, successors, and assigns hereby waives and releases, and covenants not to assert any right, claim, or cause of action which it may now have or which it may have in the future for access rights against the Adjacent Property.

*[Signatures on Following Page]*

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the Effective Date.

**OWNER:**



By: \_\_\_\_\_

Date: \_\_\_\_\_

**BUYER:**

**Prairie Song Reliability Project LLC,**  
*a Delaware limited liability company*

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_