

<b>DOCKETED</b>	
<b>Docket Number:</b>	24-OPT-04
<b>Project Title:</b>	Potentia-Viridi Battery Energy Storage System
<b>TN #:</b>	269056
<b>Document Title:</b>	Alameda County comment letter on Staff Assessment
<b>Description:</b>	N/A
<b>Filer:</b>	System
<b>Organization:</b>	County of Alameda
<b>Submitter Role:</b>	Public Agency
<b>Submission Date:</b>	3/11/2026 7:48:22 PM
<b>Docketed Date:</b>	3/12/2026

*Comment Received From: County of Alameda  
Submitted On: 3/11/2026  
Docket Number: 24-OPT-04*

**Alameda County comment letter on Staff Assessment**

*Additional submitted attachment is included below.*



# ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

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March 11, 2026

California Energy Commission

Project#: **24-OPT-04 / Potentia-Viridi Battery Energy Storage System**

*Via email and e-filing*

The following comments are submitted in response to the Staff Assessment for the above listed project located in unincorporated Alameda County. The local Planning Department has been following the application process for the past several months and most recently reviewed the staff assessment prepared pursuant to CEQA.

Local Planning staff appreciates the opportunity to provide comments on the Draft EIR, specifically the section related to Land Use and impacts to local ordinances regulations and standards (LORS). Local staff believes the CEC staff has accurately portrayed the project in light of current LORS affecting the project. Like many jurisdictions, a BESS project is a new land use type that does not have a long project review history like other alternative energy systems. That said, the County has adopted policies for BESS that anticipates more interest in this land use type, and that the unincorporated East (and rural) County is geographically located attractive to new BESS developments.

Specific to the **Potentia-Viridi** project, the County was early to identify that compliance with our local Williamson Act program was a concern given our Uniform Rules which does limit projects on Williamson Act contracted lands. Table 1-1 of the Staff Assessment correctly identifies Land Use as one of the topic areas where there is a LORS compliance concern, as well as Visual Resources. Local staff is aware that CEC staff has concluded there is a significant and unavoidable impact to visual resources, and that CEC staff concludes there is substantial and compelling evidence in the record to support a CEC decision to approve the project by issuing a statement of overriding considerations.

Relative to the Williamson Act, the CEC staff assessment goes into detail about the County's local WA program, as well as the policies the County has adopted to regulate, and ostensibly allow for, electrical facilities such as a BESS project [See **§5.8 Land Use, Agriculture, and Forestry**]. The County's 10/10 rule (compatible use limited to 10% of the parcel or ten acres, whichever is less) is mentioned several times in the staff assessment, and determines the conflict to be minor given the project site is not prime agricultural land.

The Policies for Commercial Solar and Battery Storage adopted by our Board of Supervisors in 2022 acknowledges that BESS projects are likely to be located in the East County Area Plan (ECAP), and are best suited in the Large Parcel Agriculture designation of the Plan area. As the project is located in Large Parcel Agriculture, staff concurs with the conclusions of CEC staff. Also, County agrees with the interpretation

of Policy 13 in ECAP which does allow for infrastructure to be located beyond a two-acre building envelope. There is discussion of public and quasi-public uses and utility corridors which is also consistent with the County prior analysis for electrical related projects.

County staff acknowledges this project is the first of its kind to be approved through the Opt-In process, and had a local land use permit be required, it would be a Conditional Use Permit (CUP) approved by our East County Board of Zoning Adjustments. Since the CEC Opt-in process assumes jurisdiction over land use with the current project, Staff notes on page 5.8-10 that the staff assessment believes the findings for a CUP could be made if the County held local control, and there is detail about the findings therein. Staff appreciates the analysis provided on the County's Uniform Rules, and acknowledges that **Condition of Certification (COC) Land-2** is being required to address a LORS nonconformance, and does provide mitigation for inconsistencies with the County's WA program.

As it relates to **Visual Resources**, staff understands there are three Key Observation Point (KOP) Locations where there is a substantial impact, described as a substantial degradation from existing conditions at the project site. County staff has not used the KOP analysis completed by CEC staff for the project, and is not qualified to determine its completeness or conclusions. However, the statement on page 11-1 states:

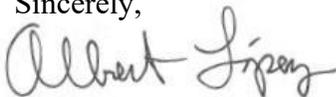
*While CEC staff concludes there is a significant and unavoidable impact to visual resources, staff concludes there is substantial and compelling evidence in the record to support a CEC decision to approve the project by issuing a statement of overriding considerations.*

County staff agrees that impacts to visual resources can be deemed substantial, given there is no effective way to screen such a large energy project. Given the general land use visual theme in the area is utility related, the statement above from CEC staff does not seem unreasonable or faulty.

Section **11.2 CEC's Authority to Approve Projects that are Inconsistent with Local and State Laws** provides the conclusory analysis and statements that lie at the heart of the CEC opt-in process and form the basis for approving the project. Given the CEC sole authority in this area, County staff does not second-guess or disagree with the conclusions reached in this section.

This concludes the County's comment on the Staff Assessment for **24-OPT-04 / Potentia-Viridi Battery Energy Storage System** project.

Sincerely,



Albert Lopez  
Planning Director