

DOCKETED

Docket Number:	24-OPT-04
Project Title:	Potentia-Viridi Battery Energy Storage System
TN #:	269926
Document Title:	Potentia Viridi BESS Review of Updated Staff Assessment
Description:	Applicant review of updated Staff Assessment dated April 24, 2026.
Filer:	Nicola Park
Organization:	Clearway Energy Group
Submitter Role:	Applicant
Submission Date:	5/11/2026 5:00:44 PM
Docketed Date:	5/12/2026

May 11, 2026

Eric W. Veerkamp
Project Manager
California Energy Commission
715 P Street
Sacramento, CA 95814

RE: Review of Updated Staff Assessment dated April 24, 2026 for Potentia-Viridi Battery Energy Storage System (Docket 24-OPT-04)

Dear Mr. Veerkamp,

Levy Alameda LLC (“Applicant”), a wholly owned subsidiary of Clearway Energy Group LLC (“Clearway”), has reviewed the Updated Staff Assessment for the Potentia-Viridi Battery Energy Storage System (“Project”), and is requesting a small number of additional changes. Clearway thanks the California Energy Commission (CEC) staff for improvements to several conditions in response to public comments, including Clearway’s. We appreciate CEC staff’s constructive engagement throughout the process.

The following are Clearway’s limited requested changes to the Conditions of Certification (COCs) for Biological Resources and Land Use for the Project. The purpose of these recommendations is to ensure that these requirements are clear, feasible to implement, and consistent with existing laws and regulations. These requested changes would not materially alter the Staff Assessment’s findings or environmental mitigation measures required of the Project.

1 Land Use

1.1 LAND-2

COC LAND-2, as modified in the Updated Staff Assessment, would require the project owner to either (1) obtain a partial cancellation of the Williamson Act contract from Alameda County, or (2) conserve agricultural land in an amount equivalent to the Grazing Land displaced by project development. The reference to cancellation of the Williamson Act contract was added to the Updated Staff Assessment and is inconsistent with staff’s original (and unchanged) determination which “recommends that the project applicant work with the landowner to seek a Williamson Act contract modification, through a partial

cancellation.” See Draft Staff Assessment at p. 11-2. No changes to this recommendation were made in the Updated Staff Assessment.

CEC acknowledges that the local land use conflict does not constitute an environmental impact because the Department of Conservation classifies the site as non-prime Grazing Land, which is not an Important Farmland category. Accordingly, the Staff Assessment correctly determines that no CEQA-based mitigation is required regarding the conversion of grazing land.

The Updated Staff Assessment also continues to recognize that the Project is inconsistent with LORS, namely the County’s 10/10 rule for development on Williamson Act contracted land. Notably, Section 11—which was not changed in the Updated Staff Assessment—indicates that staff is only “recommend[ing] that the project applicant work with the landowner to seek a Williamson Act contract modification, through a partial cancellation.” Further, Section 11 recognizes that “there is ample evidence supporting a decision to certify the construction and operation of the project despite land use inconsistency.” Yet, the newly added language requiring the applicant to obtain a partial cancellation of the Williamson Act contract would require an action not only of the applicant (applying for a partial cancellation) but also of the County (granting the cancellation). As noted in the Updated Staff Assessment (see Response to Comment 5-26), the CEC license cannot establish a requirement or required timeline for actions by other agencies. Moreover, it is clear the applicant lacks control over the County’s discretionary actions. If COC LAND-2 remains in the Staff Assessment, it should be corrected to reference only actions within the applicant’s control, namely the submission of an application for partial cancellation of the Williamson Act contract.

The requirement of a conservation easement should also be deleted in its entirety. Where a project fails to meet the 10/10 rule, the County (and by extension the CEC) cannot “revive” compatibility by demonstrating that the structure nonetheless meets the first two principles of compatibility in Sections I.A.1 and I.A.2 of the County’s Uniform Rules. Since a project failing to meet the 10/10 rule cannot be made compatible even if it meets the other principles of compatibility, there is no obligation to demonstrate consistency with those principles and a condition attempting to do so lacks nexus or rationale.

Proposed Revisions

Clearway continues to request that LAND-2 be deleted. If it remains, it should be amended as follows to ensure consistency with CEQA and place requirements only on the applicant:

LAND-2 Prior to any grading or development for the permanent project facilities under CEC jurisdiction and in order to ensure compliance with local ordinances regarding land subject to the Williamson Act, the project owner shall ~~either: 1) obtain apply for partial cancellation of the existing Williamson Act contract from Alameda County, removing the project site from the contract; or, 2) conserve agricultural land at an amount equivalent to the Grazing Land lost to project development. Options include conservation easements with the Tri-Valley Conservancy or California Rangeland Trust, or other arrangements, including fees for agricultural conservation.~~

Verification: At least 60 days prior to any project grading or building, the project owner shall provide documentation to the CPM ~~detailing implementation of the selected option(s) and acceptance~~ verifying submission of an application for partial Williamson Act contract cancellation and detailing any response by Alameda County.

2 Biological Resources

2.1 BIO-10 Crotch's Bumble Bee Measures for Take

BIO-10 Crotch's Bumble Bee Measures for Take is proposed for revision as follows to ensure that the survey requirement does not impact compliance with other conditions, namely COC HAZ-10, by delaying necessary vegetation management during project operations.

Per comments filed March 27, 2026, Clearway requests adding language throughout the COC to clarify that the restrictions on vegetation removal during the operational period and within the fenced boundary of the Project – including the requirement for a CPM-approved DB to conduct overwintering surveys no more than 10 days in advance of ground or vegetation removal activities – do not apply to vegetation management necessary for fire prevention which avoid floral resources. Routine mowing within the project fenceline should not be restricted or delayed with respect to wildfire risk.

Clearway is not requesting changes to the requirements that apply to the 6.7-acre temporary disturbance area or any areas outside the project boundary. Within these areas, grazing will continue and no mowing is planned. The only change requested is to the survey requirement that would apply inside the project fenceline during operations, which will be a very limited area. Vegetation on the site would be removed where necessary to ensure the BESS facility is free from combustible vegetation to allow for fire protection and defensible space, except root mass outside the perimeter (for soil stabilization), where appropriate. Vegetation within the project fenceline will be minimal and will need to be closely managed for fire prevention, which is why Clearway is requesting this clarifying change.

COC HAZ-10 requires that vegetation management be maintained through third party inspection and annual reporting, as described in Section 5.7, Hazards, Hazardous Materials, and Wildfire. COC HAZ-10 ensures 100-foot setbacks from the property line for BESS enclosures, removal of all vegetation within the security fence perimeter and other required areas (power poles and lines), and 100-foot defensible space around all buildings.

Proposed Revisions

11. Vegetation Removal. Disturbance or removal of ~~vegetation~~ floral resources within Crotch's bumble bee habitat shall be kept to the minimum necessary to complete work. Mower blades shall be set at heights no lower than 4 inches off the ground, unless otherwise approved by the CPM. Routine mowing shall avoid floral resources, ~~be scheduled to avoid the blooming period,~~ unless surveys do not detect the species or as otherwise approved by the CPM.

2.2 BIO-26 Habitat Management Land Acquisition for Crotch's Bumble Bee, Western Burrowing Owl, California Tiger Salamander and San Joaquin Kit Fox

Over the past 5 years ITPs have only required documentation to support presence, not successful breeding, for Red-Legged Frog. We believe California Tiger Salamander and Red-Legged Frog may have been inadvertently combined in terms of this requirement for presence versus successful breeding.

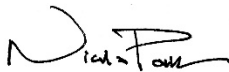
Proposed Revisions:

c. HM Lands Approval. The project owner shall obtain CPM written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least 90 days before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the project's impacts. HM lands shall meet the minimum habitat requirements ~~for the~~ for the required species including, but not limited to one or more aquatic features on-site which have been documented to support presence for Red Legged Frog, and successful breeding for California Tiger Salamander, in an average or below average rainfall year (abundance and distribution) or adjacent to aquatic features which have been documented to support presence for Red Legged Frog, and successful breeding for California Tiger Salamander, in an average or below average rainfall year (abundance and distribution) and already conserved and managed to the satisfaction of the CPM for the Covered Species; no less than 100 acres of suitable upland or adjacent to suitable upland already conserved and managed for the species Covered Species;

We thank the California Energy Commission for its consideration of these requests. We look forward to working with the CEC to complete the permitting process and commence construction in 2027 on this important battery storage project for California.

If you have any questions or require additional information, please contact me at (949) 439-3349 or by email at Nicola.Park@clearwayenergy.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicola Park". The signature is stylized with a large initial "N" and "P".

Nicola Park
Director, Development
Clearway Energy Group LLC