

DOCKETED

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CALIFORNIA ENERGY COMMISSION

IN THE MATTER OF POTENTIA-VIRIDI BATTERY ENERGY STORAGE SYSTEM, DOCKET NO. 24-OPT-04

ORDER CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING A MITIGATION MONITORING OR REPORTING PROGRAM, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, CERTIFYING THE RECORD OF PROCEEDINGS, AND GRANTING THE OPT-IN APPLICATION FOR CERTIFICATION

ORDER NO: 26-0526-07

I. BACKGROUND

On August 7, 2024, Levy Alameda, LLC (applicant), filed an Opt-In application, seeking a certification for the Potentia-Viridi Battery Energy Storage System (24-OPT-04) (project) under the California Energy Commission's (CEC) Opt-In Certification Program. The project would include construction and operation of an up to 3,200-megawatt-hour (MWh) battery energy storage system (BESS) facility, an operations and maintenance (O&M) building, a project substation, a 500-kilovolt (kV) overhead intertie transmission (gen-tie) line, and interconnection facilities within the Pacific Gas and Electric Company (PG&E) owned and operated Tesla Substation. The project is proposed to be located on approximately 102 acres in eastern Alameda County.

Under the Opt-In Certification Program, the CEC may grant a certification to an eligible facility if the commission finds that the project meets all applicable requirements under Chapter 6.2 of Division 15 of the Public Resources Code (Chapter 6.2). Moreover, Public Resources Code section 25545.7 designates the CEC as the "lead agency" under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) for Opt-In applications.

On January 26, 2026, the CEC staff filed a Staff Assessment on the project (TN 268314), which included a draft environmental impact report (EIR), prepared in accordance with CEQA. The Staff Assessment also included an analysis of the project's engineering, its consistency with all applicable local, state, and federal laws, ordinances, regulations, and standards, and its compliance with mandatory Opt-In requirements.

In the draft EIR, the CEC identified that the project, as submitted, had significant, unavoidable environmental impacts on visual resources. CEC staff concluded that

there is substantial and compelling evidence in the record to support a CEC decision to certify the final EIR and approve the project by issuing a Statement of Overriding Considerations.

On April 24, 2026, CEC staff filed an Updated Staff Assessment (TN 269622). This Updated Staff Assessment includes revisions in response to comments and recommendations received on the Staff Assessment that raised significant environmental issues, to correct typographical errors, or for clarity. The Updated Staff Assessment did not provide significant new information or alter the understanding of the project's environmental impacts.

On May 22, 2026 CEC staff filed the Errata to the Updated Staff Assessment to address concerns raised by the applicant, correct an inadvertent omission, fix typographical errors, and provide clarifying language. (TN 270170). The Errata did not provide significant new information or alter the understanding of the project's environmental impacts.

II. EXECUTIVE DIRECTOR'S RECOMMENDATION

Public Resources Code section 25545.6 and California Code of Regulations, title 20, section 1879(c) require the CEC's Executive Director to file a recommendation on whether the CEC should certify an EIR and issue a certificate for the construction and operation of the facility.

Based on the entire record of this proceeding, the Executive Director recommends that the CEC certify the final EIR, contained in the Updated Staff Assessment, as modified by the Errata, adopt a Statement of Overriding Considerations as set forth in the Updated Staff Assessment, as modified by the Errata, in **Section 11, Override Findings and Recommendations**, adopt a Mitigation Monitoring and Reporting Program, and issue a certificate to construct and operate the Potentia-Viridi Battery Energy Storage System.

III. ENERGY COMMISSION FINDINGS

Based on the exercise of independent judgment and review, and considering the record as a whole, including the Opt-In Application; public comments; Staff Assessment, including the draft EIR; and Updated Staff Assessment, including the final EIR, and Errata, we concur with the Executive Director's Recommendation to issue a certificate to construct and operate the Potentia-Viridi Battery Energy Storage System.

The CEC adopts the following findings under CEQA, the CEQA Guidelines (California Code of Regulations, title 14, section 15000 et seq.), the Warren-Alquist Act (California Public Resources Code, section 25000, et seq.), and California Code of Regulations, title 20, chapter 5, article 4.1:

1. The Potentia-Viridi Battery Energy Storage System is an eligible facility under Public Resources Code, Chapter 6.2.

2. As detailed in the Updated Staff Assessment, as modified by the Errata, applicant's project results in significant and unavoidable impacts in the area of visual resources. Specifically, the project would substantially degrade the existing visual character or quality of public views of the site and its surroundings from three applicant-submitted key observation points (KOP).

3. No feasible mitigation measures were identified in the Updated Staff Assessment that could mitigate or avoid the project's significant effects on visual resources. Specifically, CEC staff concluded that with implementation of conditions of certification, the application of surface colors and finishes, combined with the restoration and revegetation of temporarily impacted areas, would reduce the project's impact on the visual character or quality of public views of the site and its surroundings but not to a level that would be less than significant.

4. There are no feasible alternatives to the project that would avoid or substantially lessen the significant impacts to visual resources and achieve most of the benefits and objectives of the project.

5. The project would provide the following benefits: assist the State of California in achieving its Renewables Portfolio Standard and greenhouse gas emissions reduction objectives, assist the state in achieving its energy storage mandates, contribute to the diversity of renewable generation, contribute to the state's electrical grid reliability, provides a new source of energy storage that assists the state in achieving its energy storage mandates, and support the local economy by investing in the local community, creating local construction jobs, and increasing tax and fee revenue to Alameda and Contra Costa counties.

6. In accordance with California Code of Regulations, title 14, sections 15091 and 15093, and based on substantial evidence in the record, on balance, the project's significant impacts to visual resources are outweighed by the project's benefits.

7. Imposition and implementation of the conditions of certification contained in the Updated Staff Assessment will ensure protection of environmental quality and ensure reasonably safe and reliable operation of the project. The conditions of certification also ensure that changes or alterations have been incorporated into the project that avoid or substantially lessen the project's significant environmental impacts. For components of the project outside the CEC's jurisdiction, the Updated Staff Assessment recommends mitigation measures that can and should be adopted by another public agency.

8. The CEC has not recommended minimum standards of efficiency for the project pursuant to Public Resources Code section 25402(d) because no minimum efficiency standards apply to this project. The applicant is therefore not required to demonstrate compliance with minimum standards of efficiency pursuant to Public Resources Code section 25402(d).

9. Imposition and implementation of the conditions of certification contained in the Updated Staff Assessment (including a final EIR), as modified by the Errata, will ensure that the Potentia-Viridi Battery Energy Storage System will be designed, constructed, sited, operated, and decommissioned in conformity with most of the applicable public safety standards, applicable air and water quality standards, and with other applicable local, regional, state, and federal laws, ordinances, regulations, and standards.

10. To the extent the project and required conditions of certification conflict with any existing local or state laws, including local land use rules, those laws are deemed superseded by the issuance of the CEC's certification under Public Resources Code section 25545.1(b)(1).

11. The site would be restored as necessary to protect the environment if the CEC denies approval of the application, as required by Public Resources Code section 25523(e).

12. The Updated Staff Assessment, as modified by the Errata, contains a discussion of the public benefits from the project, including but not limited to, economic benefits, environmental benefits, and electricity reliability benefits, as required by Public Resources Code section 25523(h).

13. The Updated Staff Assessment identifies the public agencies that received notice of the Opt-In Application.

14. The project site is not located in a prohibited area as identified in Public Resources Code sections 25526 and 25527.

15. There is a rebuttable presumption that the construction or operation of the Potentia-Viridi Battery Energy Storage System will have an overall net positive economic benefit to Alameda County. No evidence was presented in the record that rebuts this presumption.

16. The applicant has entered into a legally binding and enforceable agreement with the Tri-Valley Haven for Women, a California 501(c)(3) non-profit organization, where there is mutual benefit to the parties to the agreement, satisfying Public Resources Code section 25545.10 (see TN 269549). A second agreement with Tri-Valley Alliance was filed to the project docket on May 20, 2026 (TN 270088).

17. The applicant has certified its commitment to implementing the labor requirements of Public Resources Code sections 25545.3.3 and 25545.3.5.

18. In accordance with Public Resources Code section 25901, the CEC's findings are based on substantial evidence and come after an independent analysis of project information contained in the docketed record, consultation with experts in the field, collaboration with other state and local agencies, and independent research as described in each of the technical sections in the Staff Assessment and Updated

Staff Assessment, as well as information from public events held pursuant to Public Resources Code sections 25545.7.2 and 25545.7.6.

19. The final EIR (included within the Updated Staff Assessment), which includes responses to comments and revisions, and as further modified by the Errata, has been completed in compliance with CEQA. The CEC reviewed and considered the information contained in the final EIR prior to approving the Potentia-Viridi Battery Energy Storage System.

20. The proceedings leading to this Order have been conducted in conformity with the regulations governing the consideration of an Opt-In Application and thereby meet the requirements of Public Resources Code section 25545 et seq. This includes circulating the draft EIR (included within the Staff Assessment) for a 60- day public review period in compliance with Public Resources Code section 25545.7.6, subdivision (b).

21. The conditions in Chapter 6.5 (commencing with Section 21178) of Division 13, including Sections 21183.6, 21186, and 21188, have been met for the Potentia-Viridi Battery Energy Storage System, and CEC staff prepared the record of the proceedings concurrently with its review of the Opt-In Application.

IV. CONCLUSION AND ORDER

1. The Updated Staff Assessment (including the final EIR) is hereby modified in accordance with the Errata to the Updated Staff Assessment filed on May 22, 2026 (TN 270170).

2. We hereby CERTIFY that the final EIR (within the Updated Staff Assessment, as modified by the Errata) complies with CEQA, reflects the CEC's independent judgment and analysis, and was considered and reviewed by the CEC before a decision on the certification of the Potentia-Viridi Battery Energy Storage System.

3. We hereby CERTIFY that the CEQA record of proceedings is complete.

4. The CEC finds that the project's significant impacts to visual resources are outweighed by the project's benefits, as set forth in the Updated Staff Assessment, as modified by the Errata. The CEC hereby ADOPTS a Statement of Overriding Considerations.

5. The CEC hereby ADOPTS CEC staff's recommendations and findings and the conditions of certification and compliance verifications set forth in the Updated Staff Assessment, as modified by the Errata, as its monitoring program required by Public Resources Code section 25532 and as the mitigation monitoring or reporting program required by Public Resources Code section 21081.6.

6. All conditions shall take effect immediately upon adoption of this Order and apply to all construction and site preparation activities including, but not limited to, ground disturbance, site preparation, and permanent structure construction.

7. The approval of the Opt-In Application for Certification for the Potentia-Viridi Battery Energy Storage System is subject to the timely performance of the conditions of certification and compliance verifications. The conditions of certification and compliance verifications are integrated within this Order and are not severable therefrom. While the project owner may delegate the performance of a condition or verification, the duty to ensure adequate performance of a condition or verification may not be delegated.

8. The Opt-In Application for Certification for the Potentia-Viridi Battery Energy Storage System, as described in the Updated Staff Assessment (including the final EIR), as modified by the Errata filed on May 20, 2026, and a certificate to construct and operate the project are hereby GRANTED.

9. This Order is adopted, issued, effective, and final on May 26, 2026.

10. The CEC staff shall file a Notice of Determination with the State Clearinghouse within five business days of May 26, 2026.

V. IT IS SO ORDERED.

APPROVED AND ADOPTED this 26th day of May 2026, by the following vote:

AYE: Hochschild, Gunda, McAllister, Gallardo, Skinner

NAY: None

ABSENT: None

ABSTAIN: None

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly approved and adopted by the affirmative vote of the CEC at a meeting held on May 26, 2026.

A handwritten signature in cursive script that reads "Kim Todd".

Kim Todd
Secretariat