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NextEra Groundwater lawsuit follow up questions

Please see attached

Additional submitted attachment is included below.



To the California Energy Commission:

This filing serves as a **second public comment submission to TN270411** on behalf of Keep Vacaville Safe members regarding the proposed Corby Battery Energy Storage System (BESS) Project (Docket No. 24-OPT-05).

Our other filing, docketed on June 9, 2026, formally introduced federal litigation recently brought against NextEra Energy affiliates and battery manufacturer LG Energy Solution (*Suffolk County Water Authority v. East Hampton Energy Storage Center, LLC et al.*, Case No. 2:26-cv-03246). That complaint details offsite groundwater contamination, specifically mobile ultrashort chain PFAS (PFPrA) migrating into municipal drinking water wells following a thermal runaway event at a NextEra managed BESS facility.

Following up on that preliminary disclosure, this second document provides a targeted analysis of the **CEC Corby BESS Staff Assessment (SA)** published in July 2026. The detailed technical questions below address gaps between the findings of the *Suffolk County* lawsuit and the mitigation protocols outlined in the Staff Assessment focusing specifically on post fire site remediation, long term groundwater sentinel monitoring, potential impacts on neighboring residential and municipal water wells, and runoff protection for adjacent Solano Irrigation District (SID) canals.

1. Given that the site rests over a shallow aquifer with a **15-foot water table** and drains into local subbasins, how can the CEC deem this location suitable when the applicant has failed to provide a lined retention system capable of preventing toxic fire-suppression runoff and chemical condensate from directly infiltrating the groundwater? If no synthetic liner or zero discharge collection vault is required, how does the CEC justify placing a multigigawatt-hour industrial chemical facility above an unshielded, high water table aquifer?"

2.The Staff Assessment relies heavily on manufacturer assertions regarding the safety of the LG Energy Solution JF2 DC LINK platform. However, where in Docket **24-OPT-05** is the full-scale, unredacted **UL 9540A third-party test report** showing off-gas toxicity and liquid condensate runoff under multi-module cascading failure? Without docketed, empirical proof of gas compositions and toxic heavy-metal runoff under failure conditions, on what evidentiary basis can the CEC conclude that offsite migration of hazardous chemicals will remain at a level of insignificance?"

3.Under **COC HAZ-9**, the applicant is required to submit a Soil and Water Quality Sampling Plan following an incident. However, will **COC HAZ-9** mandate baseline testing and post-incident screening for **ultra-short chain PFAS** and fluorinated breakdown products before site prep begins? If baseline groundwater testing for these specific persistent chemicals is not conducted prior to construction, how will the CEC or the Regional Water Quality Control Board determine whether post-incident groundwater contamination was caused by the BESS facility?"

4.In light of ongoing litigation and historical thermal runaway events across NextEra-managed and affiliate-operated facilities, has the CEC conducted an independent audit of NextEra's operational safety record across all comparable US facilities? If the CEC has not evaluated historical root-cause analyses and offsite environmental impacts from NextEra's broader fleet, how can the Commission certify that this specific site and operator combination will not result in offsite contamination and fire hazards ?"

5.Given that standard battery fires produce highly acidic, toxic liquid condensate, what specific containment design features beyond basic unlined stormwater basins will be installed on-site to intercept liquid runoff before it migrates off-site? Does the project design incorporate sealed secondary containment vaults or impermeable catchments beneath the BESS enclosures, and if not, how does the CEC ensure compliance with California Regional Water Quality Control Board standards regarding unpermitted discharges to local groundwater?"

6.In the event of a thermal runaway that releases toxic combustion residues, fluorinated compounds, or heavy metals into the soil or the 15-foot groundwater table, what specific remediation protocol applies? Which state or local agency will hold lead authority over the post-incident soil and groundwater cleanup plan under **COC HAZ-9**, what are the enforceable timeline benchmarks for

remediation, and what threshold triggers mandatory soil excavation and groundwater extraction?"

7. Who bears primary legal and financial liability for short term emergency response, long-term environmental remediation, and third party property or health damages resulting from a toxic release at the Corby facility? Will the CEC require the applicant to establish a dedicated, pre-funded environmental impairment liability bond or escrow fund before construction commences, ensuring that local taxpayers, Solano County, and emergency service providers are not forced to shoulder the financial burden of a toxic chemical cleanup?"

8. Because the proposed site sits over an unshielded **15-foot water table** and utilizes unlined retention basins for site drainage, isn't the potential for toxic runoff, heavy metals, and ultra short chain PFAS to infiltrate the local subbasin aquifer a **significant hydrological impact**?

9. Since Lambie Industrial Park is already zoned for heavy industry, has complete infrastructure, preserves active farmland, protects irrigation canals, and keeps toxic fire plumes away from sensitive receptors, **how can the CEC justify certifying the rural Kilkenny Road site without admitting that it is knowingly choosing a location with avoidable, significant environmental impacts?**"

10. The project design specifies that most of the facility will be surfaced with permeable crushed rock and gravel over unlined native soil. In the event of a thermal runaway or BESS fire, how deep will the CEC require NextEra to excavate contaminated gravel and soil, and what specific action thresholds (in parts per trillion/billion) for ultrashort-chain PFAS (e.g., PFPrA), lithium, cobalt, and heavy metals will trigger mandatory hazardous waste removal under **COC HAZ-9**?

11. Given that mobile battery related contaminants (such as ultrashort-chain PFAS) take months or years to migrate through groundwater, will the CEC require permanent, multi depth sentinel monitoring wells installed around the perimeter of the facility to monitor the shallow 8-to-15-foot alluvial aquifer quarterly for a minimum of 5 to 10 years following any off-gas venting or fire event? If not, please explain why?

12. Will the Applicant be required to post an irrevocable decommissioning and environmental remediation bond prior to construction specifically dedicated to post fire site decontamination and aquifer cleanup so that local taxpayers and Solano County are not left bearing financial liability if an affiliate LLC defaults or files for bankruptcy following a major incident? If not, please explain why.

13. There are private residential wells and agricultural operations (such as multi-generational orchards) located within 500 yards of the site boundary that tap into the shallow groundwater. Will the CEC order baseline pre-operational chemical testing of all private drinking water wells within a 1-to-2-mile radius, and guarantee free post incident water testing for these homeowners in the event of a BESS fire or thermal venting event? If not explain why.

14. The City of Vacaville relies on the Solano Subbasin for municipal drinking water. Given that conventional carbon filtration systems are ineffective at removing ultrashort chain PFAS (like PFPrA) generated in BESS fires, what specific hydrogeologic modeling has been docketed in **24-OPT-05** to prove that surface runoff infiltrating the water table will not migrate into municipal well capture zones?

15. If post fire groundwater testing from a fire at the Corby facility reveals toxic BESS degradation products or PFAS in neighboring residential or municipal wells, what legally binding Condition of Certification will require NextEra to immediately provide bottled water and finance point of entry filtration or municipal line hookups for affected residents? How will you enforce this and how swift will NextEra be mandated to act? If not, please explain why you wouldn't hold NextEra responsible.

16. The site plan utilizes perimeter drainage ditches and two retention basins to capture site runoff. During heavy winter storms or a high volume fire response event, if these retention basins overflow, what secondary containment or automated shut off valves exist to block toxic runoff from flowing into nearby agricultural drainage ditches, local creeks, and downstream SID distribution channels?

17. If BESS post fire runoff or smoke fallout impacts an active SID irrigation canal, what is the clear protocol to notify agricultural users, suspend irrigation

deliveries, and compensate farmers for lost crop yields or land devaluation resulting from irrigation water contamination?

18. Under the Warren-Alquist Act and CEQA, the CEC's mandate is to certify only environmentally responsible projects and avoid unmitigated environmental impacts. Given the documented risks of offsite PFAS and heavy metal contamination, what specific quantitative criteria did Staff use in the Alternatives Analysis to reject properly zoned, lower risk industrial alternatives in favor of this site, which sits directly near residential and municipal wells and adjacent to active Solano Irrigation District (SID) canals?

The *Suffolk County Water Authority* litigation highlights critical, real-world environmental hazards from BESS fires, specifically mobile ultrashort chain PFAS migrating into shallow groundwater. The mitigation measures in the Corby BESS Staff Assessment do not fully address these contamination dynamics or the risks posed to our shallow water table and neighboring Solano Irrigation District canals.

Before final certification, CEC Staff must formally answer these technical inquiries, mandate public disclosure of full UL 9540A test data, and enforce binding Conditions of Certification for robust post-fire runoff containment and long term sentinel groundwater monitoring.

Respectfully submitted,

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Keep Vacaville Safe