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*Comment Received From: Linda Geller
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Inadequacy of Draft EIR Analysis

Additional submitted attachment is included below.

September 4, 2026

California Energy Commission
Docket Unit - Docket No. 24-OPT-05
715 P Street
Sacramento, California 95814

Re: Comments on Biological Resources Analysis - Corby Battery Energy Storage System Project Staff Assessment; Monarch Butterfly

Dear Commissioners:

My comments address the Staff Assessment's treatment of the monarch butterfly (*Danaus plexippus*), including the occurrence determination, construction and operational impact conclusions, COC BIO-10, restoration assumptions, and the newly submitted photographic evidence of adult monarch reproductive behavior on the Catherine Kilkenny Ranch on Kilkenny Road.

The purpose of these comments is to identify unresolved factual and analytical deficiencies for the administrative record. The comments do not assume that omitted studies, data, survey results, or supporting analyses exist, and they should not be construed as supplying the evidentiary basis that must appear in the Staff Assessment itself.

I. Staff's "Low Potential" Determination Is Undermined by Direct Contrary Evidence

The Staff Assessment finds a "low potential" for monarch occurrence because the project site is outside the known overwintering range, does not contain overwintering tree groves, and milkweed was not observed during surveys in 2023 or 2024. Staff nevertheless acknowledges that monarchs are foraging generalists that may use flowering plants in the vicinity. Staff also explains that adult monarchs require nectar from a variety of flowering plants during breeding and migration. (Staff Assessment, pp. 5.2-47, 5.2-80.)

The attached photograph was taken recently and documents two adult monarch butterflies engaged in mating behavior on the Catherine Kilkenny Ranch on Kilkenny Road. Multiple milkwood plants are grown on the grounds. The photograph is direct evidence of adult monarch presence and reproductive behavior in the local landscape. It does not, by itself, establish milkweed, egg deposition, larval development, an occupied breeding site, or critical habitat. It does, however, directly contradict any factual premise that adult monarch use of the local landscape is merely hypothetical or unsupported.

The Catherine Kilkenny Ranch is also a registered Monarch Waystation through Monarch Watch. The Waystation designation identifies the Ranch as habitat providing resources for monarchs throughout their annual cycle of reproduction and migration and supporting other pollinators and wildlife. The Ranch is separately recognized by the National Wildlife Federation as a Certified Wildlife Habitat for providing essential wildlife-habitat elements, including food, water, cover, and places to raise young. Photographs of the Monarch Waystation registration sign and National Wildlife Federation certification are submitted as Exhibits B and C. These designations, considered together with the documented observation of monarchs mating on the Ranch in Exhibit A, are relevant contrary evidence concerning Staff's characterization of monarch occurrence and habitat use in the immediately adjacent Kilkenny Road landscape.

That distinction is material because Staff's analysis is not limited to overwintering or larval habitat. Staff expressly relies on the asserted low probability of occurrence in concluding that individual monarchs are not expected to be affected. (Staff Assessment, pp. 5.2-47, 5.2-80.) Once record evidence documents adult monarch presence and mating behavior, the adequacy of that

occurrence determination and the impact conclusions dependent upon it require a reasoned evidentiary response.

II. The Survey Record Does Not Identify a Monarch-Specific Baseline Survey

The biological survey record identified in the Staff Assessment does not disclose a focused monarch adult-use survey, migration survey, nectar-resource survey, or seasonally appropriate monarch baseline survey. Table 5.2-4 identifies a reconnaissance-level survey on June 1, 2023, while the other listed focused or protocol-level wildlife surveys address burrowing owl and Swainson's hawk. (Staff Assessment, pp. 5.2-33–5.2-34.) Staff later states that no monarch butterflies were observed during field surveys. (Id. at p. 5.2-47.) The record therefore does not establish that the field effort was designed or timed to detect adult monarch use.

The record should be clear whether the asserted non-detection was merely incidental. Detectability of a mobile migratory insect depends on season, weather, flowering conditions, time of day, regional movement, survey duration, and the methodology used. Staff's own description recognizes annual migration, breeding and migratory nectar use, and the importance of flowering plants. (Staff Assessment, p. 5.2-47.) A non-detection during field work directed to other resources is not equivalent to a targeted survey conducted under conditions appropriate for the species.

III. Absence of Milkweed Does Not Resolve Impacts to Adult Monarchs

Staff states that grading, excavation, and soil stockpiling may temporarily disturb or remove low-quality foraging habitat, but concludes that individual monarchs are not expected to be affected because larval host plants and suitable roosting habitat are absent. (Staff Assessment, p. 5.2-80.)

The reasoning does not address adult monarchs. Staff itself states that adult monarchs require nectar from a variety of flowering plants during breeding and migration, while milkweed is the larval host plant. (Staff Assessment, p. 5.2-47.) Thus, absence of milkweed does not establish the absence of adult monarchs using nectar plants, moving through the site, resting temporarily, or mating. Staff further recognizes that monarchs are foraging generalists that may use available flowering plants. (Id.; Staff Assessment, p. 5.2-80.) For the non-jurisdictional components, Staff acknowledges that direct impacts from vegetation trimming or removal could occur if monarchs are present. (Staff Assessment, p. 5.2-81.)

The photograph makes this analytical gap concrete rather than theoretical. Adult monarchs are present in the local landscape and have been observed engaged in reproductive behavior. Yet Staff concludes that no direct impacts to individual monarchs are anticipated from jurisdictional construction. (Staff Assessment, p. 5.2-80.) The Staff Assessment does not disclose substantial evidence establishing why vegetation removal, construction traffic, fugitive dust, loss of flowering resources, herbicide or pesticide exposure, noise, or other construction activity would present no direct effect to adults if they are present.

IV. COC BIO-10 Is Directed to Larval Host Plants and Immature Life Stages

COC BIO-10 requires a survey no more than two days before site mobilization and/or construction-related vegetation trimming or removal for potentially suitable monarch larval host plants. If host plants are found, they are surveyed for eggs, larvae, and pupae. If none are found, the plants may be removed within two days with CPM approval. (Staff Assessment, pp. 5.2-140–5.2-141.)

BIO-10 therefore does not, on its face, resolve adult-use impacts identified by the photographic evidence. Its operative survey and protection provisions address larval host plants and eggs, larvae, and pupae. (Staff Assessment, pp. 5.2-140–5.2-141.) The condition does not state what occurs if adult monarchs are present while no milkweed is found; it does not identify a threshold for concentrated adult use, mating activity, or migration; and it does not establish whether nectar resources used by adults are mapped, retained, or replaced.

The two-day preconstruction survey is also a clearance measure, not a substitute for a baseline analysis. BIO-10 requires the survey no more than two days before site mobilization and/or construction-related vegetation trimming or removal. (Staff Assessment, p. 5.2-140.) Depending on timing, it could occur after mowing, after seasonal senescence, outside a period of substantial monarch use, or after site conditions have changed. The record does not explain how such a survey can substantiate the pre-approval conclusion regarding the nature and magnitude of adult monarch use.

V. The Claimed 5.7-Acre Net Increase in Monarch Foraging Habitat Is Not Supported by a Transparent Habitat Accounting

Staff states that removal of approximately 21.6 acres of orchard and restoration of the gen-tie corridor and laydown area would convert “unsuitable orchard habitat” to potentially suitable monarch foraging habitat and produce a net increase of approximately 5.7 acres. (Staff Assessment, p. 5.2-80.)

The Staff Assessment does not show the calculation supporting that figure or establish the ecological premise that the existing orchard is categorically unsuitable for adult monarch functions. Staff states that approximately 21.6 acres of “unsuitable orchard habitat” would be converted to potentially suitable foraging habitat and yield a net increase of approximately 5.7 acres. (Staff Assessment, p. 5.2-80.) The analysis does not identify whether orchard blossoms, understory flowering plants, edge vegetation, shelter, temporary resting, or movement functions were evaluated. This omission is particularly material because Staff elsewhere recognizes that adult monarchs require nectar from flowering plants during breeding and migration. (Staff Assessment, p. 5.2-47.)

The record also does not identify the time required for restored vegetation to become functional, the proportion of restored acreage that will provide nectar resources, seasonal bloom continuity, establishment-success criteria, or the effect of mowing, fire-clearance requirements, access, and herbicide use on the claimed future habitat value. Staff relies on a revegetation seed mix containing native and naturalized nectar-producing forbs and grasses in support of its less-than-significant conclusion. (Staff Assessment, pp. 5.2-80–5.2-81.) Without the missing performance and timing information, the asserted 5.7-acre net benefit is not a substitute for analysis of existing habitat loss.

VI. The Operational “No Impact” Finding Does Not Analyze the Jurisdictional BESS Facility

Staff states that operation would have no direct or indirect impact on monarch butterflies or their habitat. The supporting operational discussion, however, addresses the non-jurisdictional components and assumes routine inspections and maintenance will not remove floral resources. (Staff Assessment, p. 5.2-81.)

The Staff Assessment does not provide a corresponding monarch-specific operational analysis for the jurisdictional BESS facility addressing vegetation management, mowing, herbicide or pesticide use, fire-clearance activities, drainage maintenance, vehicle traffic, lighting, noise, repair, equipment replacement, or emergency response. The disclosed operational discussion states that activities would be limited to routine inspections, equipment monitoring, and periodic maintenance and would not involve additional vegetation clearing or removal of floral resources. (Staff Assessment, p. 5.2-81.) Those assumptions are stated in the subsection addressing non-jurisdictional project components; the categorical “No Impact” heading is broader than the analysis disclosed beneath it. (Id.)

VII. Current Agency Information Heightens the Need for a Complete Record

CDFW identifies the monarch as a Species of Greatest Conservation Need in California and describes breeding and migratory habitat conservation as an active statewide priority. In May 2026, the California Multi-Agency Monarch and Pollinator Collaborative published statewide conservation priorities in response to the western monarch's severe long-term decline. The U.S. Fish and Wildlife Service continues to identify the monarch as proposed for federal threatened status; as of September 2026, a final listing rule has not been issued.

These regulatory facts are not offered as a substitute for CEQA's project-specific analysis. They underscore the importance of accurately characterizing adult use, migratory and nectar habitat, and uncertainty in the project record rather than treating absence of overwintering groves or observed milkweed as dispositive.

VIII. CEQA and Administrative Record Concerns

CEQA requires an EIR to contain sufficient analysis to permit informed decisionmaking and public participation, and its conclusions must be supported by substantial evidence in the record. (Pub. Resources Code, §§ 21080(e), 21081.5; CEQA Guidelines, §§ 15151, 15384.) An agency may not rely on unsupported assumptions or conclusory statements in place of analysis. (Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 435; Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 514–516.)

Mitigation also must be sufficiently defined and enforceable; formulation of essential mitigation standards may not be deferred without adequate performance criteria. (CEQA Guidelines, § 15126.4(a)(1)(B); Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 92–95.) BIO-10's focus on future host-plant clearance does not itself supply the missing baseline analysis concerning adult monarch use or resolve the documented contrary evidence.

IX. Questions Requiring Written Response

1. What survey, if any, was specifically designed to detect adult monarch use of the project site or immediately surrounding landscape, and on what dates was it performed?
2. For each statement that monarchs were “not observed,” what was the survey purpose, methodology, duration, time of day, weather, flowering condition, and monarch-season context?
3. Does Staff agree that Exhibit A documents adult monarchs mating on the Catherine Kilkenny Ranch on Kilkenny Road? If not, identify the evidentiary basis for that conclusion.
4. How does the photographic evidence affect Staff's “low potential” occurrence determination and its conclusion that individual monarchs are not expected to be directly affected?
5. What evidence supports treating the absence of milkweed as a basis for concluding that adult monarchs will not be directly affected by jurisdictional construction?
6. What protection, if any, applies under BIO-10 when adult monarchs are observed foraging, resting, moving through the site, or mating but no occupied milkweed is present?
7. What evidence supports the characterization of approximately 21.6 acres of orchard as “unsuitable” for monarch use, including adult nectar, edge, shelter, resting, and movement functions?
8. What calculation produces the claimed 5.7-acre net increase in monarch foraging habitat, and what acreage is counted as existing, permanently lost, temporarily disturbed, restored, and functionally available after construction?

9. What performance standards establish that restored vegetation will provide seasonally available nectar resources, and when is that habitat expected to become functional?
10. What monarch-specific analysis supports the operational “no impact” finding for the jurisdictional BESS facility, including mowing, herbicide/pesticide use, fire-clearance work, lighting, traffic, drainage maintenance, repair, and emergency response?
11. How was the uncertainty created by the absence of a disclosed monarch-specific baseline survey incorporated into the significance determination?
12. What documents, survey forms, field notes, photographs, GIS layers, species lists, and communications support Staff’s monarch occurrence, habitat-quality, and significance determinations, and where are those materials located in the administrative record?
13. How did Staff account for the Catherine Kilkenny Ranch’s registered Monarch Waystation and Certified Wildlife Habitat status, together with the documented mating observation, in determining that monarchs have a low potential to occur and in characterizing habitat in the project vicinity?

X. Administrative Record Position

The record now includes site-specific evidence that monarchs have been observed mating on the Catherine Kilkenny Ranch on Kilkenny Road (Exhibit A), that the Ranch is registered as a Monarch Waystation with Monarch Watch (Exhibit B), and that it is recognized as a Certified Wildlife Habitat by the National Wildlife Federation (Exhibit C). This evidence should be addressed in evaluating Staff’s low-potential occurrence determination, its characterization of habitat quality, and its conclusions concerning adult monarch use of the project vicinity.

The present record does not disclose a monarch-specific baseline survey capable of establishing the extent of adult monarch use (Staff Assessment, pp. 5.2-33–5.2-34, 5.2-47); does not reconcile direct photographic evidence of mating monarchs with the low-potential determination (id. at p. 5.2-47); relies on absence of larval host plants to support conclusions concerning adult impacts (id. at p. 5.2-80); does not show the calculation or ecological basis for the asserted 5.7-acre net habitat increase (id.); and does not disclose a monarch-specific operational analysis for the jurisdictional BESS facility (id. at p. 5.2-81).

These comments preserve those deficiencies and the associated significance, mitigation, baseline, substantial-evidence, and informational-disclosure issues for the administrative record. The photographic evidence should be maintained with these comments as Exhibit A and considered as part of the record before any final decision on the Project.

Sincerely,

Linda Geller

Co-owner of Catherine Kilkenny Ranch

Sources Referenced

California Energy Commission, Corby Battery Energy Storage System Project Staff Assessment, Biological Resources, pp. 5.2-33–5.2-34 (wildlife survey table), 5.2-47 (monarch biology, habitat requirements, non-detection, and low-potential finding), 5.2-80–5.2-81 (construction, restoration, mitigation, and operation), and 5.2-140–5.2-141 (COC BIO-10).
California Department of Fish and Wildlife, Monarch Butterfly; California State Wildlife Action Plan / Species of Greatest Conservation Need.

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California Multi-Agency Monarch and Pollinator Collaborative, Conservation Priorities for the Western Monarch Butterfly in California (2026).

U.S. Fish and Wildlife Service, Monarch Butterfly proposed threatened-status materials and current status information (September 2026).

EXHIBIT A

PHOTOGRAPHIC EVIDENCE OF ADULT MONARCH MATING BEHAVIOR

Photograph provided by commenter documenting two adult monarch butterflies engaged in mating behavior near the Corby Project area.



Exhibit A. Adult monarch butterflies engaged in mating behavior. Submitted as contrary record evidence relevant to adult monarch presence and local habitat use.

This photograph is offered for the limited evidentiary proposition that adult monarch butterflies have been observed on the Catherine Kilkenny Ranch on Kilkenny Road and were engaged in reproductive behavior. No broader biological conclusion is asserted from the photograph alone.

EXHIBIT B

MONARCH WATCH MONARCH WAYSTATION

Catherine Kilkenney Ranch, Kilkenney Road - Monarch Waystation habitat registered with Monarch Watch.



Exhibit B. Photograph of the Monarch Waystation registration sign at the Catherine Kilkenney Ranch.

EXHIBIT C
NATIONAL WILDLIFE FEDERATION CERTIFIED WILDLIFE HABITAT

Catherine Kilkenny Ranch, Kilkenny Road - Certified Wildlife Habitat recognized by the National Wildlife Federation.



Exhibit C. Photograph of the National Wildlife Federation Certified Wildlife Habitat plaque at the Catherine Kilkenny Ranch.