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*Comment Received From: Majella Cullinan
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Inadequate Feasibility Analysis

Additional submitted attachment is included below.

August 26, 2026

California Energy Commission
715 P Street
Sacramento, California 95814

Re: Comments Regarding Feasibility of the Proposed Generation Tie Line and
Unresolved Property Rights and Crossing Agreements

Dear Commissioners:

I am a resident of Vacaville and I am submitting these comments because I do not understand how the California Energy Commission can conclude that the proposed generation tie line for the Corby Battery Energy Storage System Project is feasible when the Applicant has not secured all of the property rights and crossing agreements necessary to construct a complete transmission tie line ("gen-tie") from the Project to PG&E's Vaca-Dixon Substation

This is particularly concerning because Solano Irrigation District ("SID") has not simply stated that an easement remains outstanding. SID advised the Commission on November 19, 2025 that it had not consented to, or authorized Corby-Nexterra to construct improvements across SID facilities or property and had not authorized entry onto its property. SID further stated that easement negotiations had already occurred, were unsuccessful, and were terminated, and that Corby-Nexterra "has never obtained a written agreement from SID authorizing the facilities needed for the Project."

Most importantly, SID advised the Commission that without a written agreement, "the Project will not be constructed as proposed."

The Feasibility Question Concerns the Complete Gen-Tie

The proposed underground routes do not have identical property requirements. Underground Route Option #1 crosses Kilkenny Road and an SID facility and requires private easements affecting APNs 0141-030-080 and 0141-010-030, an SID easement, and a City of Vacaville encroachment permit.

Underground Route Option #2 places its east-west segment within the City-maintained Kilkenny Road right-of-way and requires a private easement affecting APN 0141-030-080 and a City encroachment permit.

The distinction is important, but it does not resolve the feasibility question. After their separate east-west segments, both routes merge into a shared corridor that proceeds north on overhead structures, crosses Interstate 80, and connects to the Vaca-Dixon Substation. That shared segment requires additional property rights and crossing approvals, including applicable SID and Caltrans approvals.

Therefore, the relevant question is whether the Applicant has, or can reasonably obtain, the rights necessary to construct a complete gen-tie from the Project to the Vaca-Dixon Substation.

The July 2026 Staff Assessment does not establish that SID granted the necessary property rights. To the contrary, in its discussion of the Central Overhead Gen-Tie Route

Alternative, Staff states that the route is “technically feasible,” but immediately acknowledges that an SID easement would be required. Staff then quotes the Applicant as stating that “SID has **not** indicated that they will provide the easement necessary to cross the gen-tie line under the existing SID canal located adjacent to the north side of Kilkenny Road. The Applicant team is continuing attempts to coordinate with SID regarding the easement agreements.” (Staff Assessment, § 8.8.3, p. 8-47.) (Emphasis added).

However, I understand this situation has not changed; there is no easement agreement.

This raises a basic question: How is the gen-tie considered feasible when the Applicant does not have the legal right to construct all of the facilities necessary to complete it?

“Technically Feasible” Is Not the CEQA Feasibility Standard. Public Resources Code section 21061.1 and CEQA Guidelines section 15364 define “feasible” as “capable of being accomplished in a successful manner within a reasonable period of time,” taking into account economic, environmental, social, and technological factors.

CEQA Guidelines section 15126.6(f)(1) also expressly identifies “site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries ... and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site” as factors relevant to feasibility.

The California Supreme Court applied this principle in *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 574–575, recognizing that whether property is owned or can reasonably be acquired has a strong bearing on whether an alternative can be successfully accomplished within a reasonable period of time. [Citizens of Goleta Valley v. Board of Supervisors](#)

The issue here is therefore not whether engineers can physically construct a transmission line. The question is whether the Applicant can reasonably obtain the property rights necessary to construct it. There is a significant difference between an easement that simply has not yet been finalized and one where the property owner states that negotiations occurred, failed, were terminated, and never resulted in an agreement. SID describes the latter situation.

Staff’s description of the route as “technically feasible” does not address that evidence.

If the Applicant cannot obtain the necessary property rights, the gen-tie alignment may have to change. What are the options? There is no analysis in the EIR report. A different route could affect visual resources, agricultural land, biological and cultural resources, SID facilities, neighboring properties, and the Catherine Kilkenny Residence and its historic setting.

SID itself advised the Commission that crossings of its water-conveyance facilities create operational and environmental issues requiring extensive planning and coordination.

CEQA requires an environmental document to provide sufficient information to permit informed decision-making rather than defer identification of potentially important

environmental consequences until after project approval. See *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392–396.

Accordingly, if the presently analyzed gen-tie cannot be constructed and a materially different alignment would be required, the Commission must determine whether additional environmental review is necessary before approving or allowing construction of that alignment.

Pursuant to CEQA Guidelines section 15088, I request that the Commission provide a substantive written response to these significant environmental issues and identify the evidence in the administrative record supporting its responses.

What easements, crossing agreements, encroachment permits, and other property rights are required for Underground Route Option #1, and which have actually been obtained?

What property rights and approvals are required for Underground Route Option #2, and which have been obtained?

What SID, Caltrans, private-property, PG&E, or other approvals are required for the shared corridor through the Interstate 80 crossing and connection to the Vaca-Dixon Substation, and which have been obtained?

Has SID granted any necessary easement or crossing authorization since its November 19, 2025 letter? If not, what substantial evidence supports an assumption that the necessary SID rights can reasonably be obtained when SID states that previous negotiations failed and were terminated?

Why does Staff describe the Central Overhead Gen-Tie Route Alternative as “technically feasible” on page 8-47 while acknowledging that an SID easement is required and that SID has not indicated it will provide one? What is the basis for concluding that the route is feasible under Public Resources Code section 21061.1 and CEQA Guidelines sections 15364 and 15126.6, rather than merely physically constructible?

Does either proposed underground option, together with the shared corridor, provide a complete route to the Vaca-Dixon Substation that the Applicant presently has the legal right to construct?

If not, what substantial evidence supports Staff's determination that the proposed gen-tie, and therefore the Project itself, is feasible? Where is the analysis in the EIR?

If a different gen-tie alignment becomes necessary because the required property rights cannot be obtained, will the Commission require additional environmental review before construction?

The Corby BESS cannot operate without a gen-tie connecting it to the Vaca-Dixon Substation. SID stated that it had not granted necessary authorization, previous easement negotiations failed and were terminated, and the Project will not be constructed as proposed without an agreement.

The July 2026 Staff Assessment does not show that this issue has been resolved. Instead, Staff acknowledges on page 8-47 that an SID easement is required for the route being discussed and that SID has not indicated it will provide one.

CEQA feasibility requires more than technical constructability. It asks whether something can actually be accomplished successfully within a reasonable period of time, and *Citizens of Goleta Valley* confirms that reasonable access to necessary property is relevant to that determination.

Before approving the Project, the Commission must identify the substantial evidence demonstrating that the Applicant can reasonably obtain the property rights and approvals necessary to construct a complete gen-tie to the Vaca-Dixon Substation. If that evidence does not exist, the Commission should explain how the Project can presently be considered feasible as proposed and environmentally analyzed.

Respectfully,

Majella Cullinan